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A THESIS PRESENTED TO THE FACULTY OF ARTS OF THE UNIVERSITY OF
EDINBURGH FOR THE DEGREE OF DOCTOR OF PHILOSOPHY.



A.D. 1936.

C O N T E N T S.

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P R E F A C E.

This thesis deals with some aspects of the policy of Great Britain in her relations with the Australian colonies during the second half of the 19th Century. The chief colonial problems of the 19th Century were connected with the land system, transportation and immigration; trade, tariffs and communications; defence; self-government and the Imperial connection. As far as Australia was concerned, there was no native problem. I have not attempted to deal with the first group as that would have involved a detailed examination of the history of the colonies prior to 1850 and resulted in an unduly long thesis. I have tried to show the policy of the British Government towards self-government and the Imperial connection by describing the steps by which responsible government was acquired in each of the states and by an account of the movement which resulted in the federation of those states. The account of the first three Colonial Conferences seemed to be the best way to exemplify Great Britain's policy with regard to trade, tariffs, communications and defence. Chapter III, on the general attitude of Great Britain towards the colonial empire, is intended to be representative and typical rather than exhaustive and to give in a general way some idea of the evolution of colonial policy in the 19th Century.

I INTRODUCTION.

1. New South Wales.

By the middle of the 19th Century settlements had been made in all the territories which later became the six states of the Commonwealth of Australia, and the amount of progress made varied according largely to the circumstances under which the settlements had been made.

The oldest colony was New South Wales, the capital of which, Sydney, had been established on January 26th, 1788, by Captain Arthur Phillip. The war with the American colonies had placed two problems before the British government. One was how to deal with the "United Empire Loyalists" who refused to stay in the United States after the war; the other was how to dispose of convicts who before the war would have been transported to the American colonies. Sir Joseph Banks, a botanist who had been with Cook's expedition when that navigator had discovered the eastern coast of Australia in 1770, gave evidence in 1779 before a House of Commons committee on the convict question and urged that Botany Bay should be used for the reception of convicts sentenced to transportation.

In 1783 James Matra who had also been with Cook in 1770, wrote to Lord Sydney, Secretary of State for the Home Department, suggesting that the loyalists might be sent to the newly discovered country where there was plenty of room for settlement as well as opportunity for trade with India, China and Japan. In discussing the scheme with Lord Sydney, he saw that the convict question was more urgent; so he pointed out that there was also plenty of room for the reception of convicts.

In 1785, Admiral Sir George Young submitted a detailed plan

for settling both loyalists and convicts as well as Chinese and Indians in New South Wales and the failure of the scheme for sending convicts to the West coast of Africa where most of them would have died of disease led the Government to decide on experimenting with New Holland. The King's speech to Parliament in 1787 announced the Government's intention of transporting convicts in order to relieve the pressure on the over-crowded jails of Great Britain. Unfortunately, the loyalists were not included in the scheme and so a valuable element was omitted. If these people, accustomed as they were to life in the American colonies, had been the nucleus of the free population of Australia, the difficulties with which the early governors had to contend might have been lessened considerably and the young colony would have had a much more propitious start in life. As it was, the colony was planted mostly with what Bacon called "the scum of people and wicked condemned men", a proceeding which he called "a shameful and unblessed thing." The composition of the early population affected both the economic and political progress of the colony. Of the 1007 persons landed by the first fleet, over 700 were convicts, of whom more than 500 were males. The remainder of the company were marines, who were to act as guards over the convicts, together with naval, military and civil officers necessary for administrative work. In 1789, the marines were replaced by the New South Wales Corps, a regiment specially raised in England for service in the colony. To encourage members of the Corps to settle in New South Wales, the governor was authorised to make them grants of land. Until it was removed in 1809 it played an important part in the life of the

colony and, as many of its members accepted the governor's land grants, they still continued to play their part in its later development.

No attempt was made to draw up a constitution for the new colony for the simple reason that the whole colony was practically a gaol and was not intended for free settlers apart from officials, although from the earliest days there was a certain amount of free immigration which increased as the colony grew older. But free settlers had to accept conditions as they found them. To regularise the position as to transportation and the control locally of the convicts transported, Parliament in 1784, passed an act¹⁾ permitting the transportation of prisoners to any place the Privy Council chose, and²⁾ 1787 another act was passed providing for the establishment of a criminal court in the penal colony so that breaches of the law could be dealt with in the colony.³⁾ No provision was made for legislation or taxation but the Governor was given very wide powers in his Commission and Instructions which were issued to him on the authority of the King. Since he was virtually the governor of a gaol, he had very wide powers and ruled autocratically. His jurisdiction extended as far west as the 135th meridian of east longitude and east to include New Zealand and numerous islands of the Pacific. In the other direction, his territory extended from Cape York in the north to the southernmost point of Van Diemen's Land in the south. He was responsible to the Secretary of State for the Home Department and later to the Secretary for War and the Colonies to whom he sent from time to time dispatches giving account of his

1. 24 Geo. III., C. 56.

2. 27 Geo. III., C. 2.

3. The act applied to the east coast of New South Wales and places adjacent and was passed without any discussion.

administration and from whom he received further instructions and replies to his questions.

No regular Council was created until 1825 but usually he consulted his officers on points of administration although he was not bound to do so. The chief men in the community were appointed Justices of Peace in order to deal with minor offences and civil cases. They also helped to enforce discipline among the convicts for which purpose they had very wide powers. Some of these powers were illegal and those that were not confirmed later mainly by acts of the local legislature from 1824 on were taken away. In the early days of the colony when the convicts so greatly outnumbered the free population, such powers had to be given to the Justices of the Peace. Higher than the courts in which the Justices of the Peace functioned, there was a court presided over by the Judge Advocate who also prosecuted and was supposed to act on behalf of the prisoner. In criminal cases the Judge Advocate was assisted by six officers nominated by the Governor and in civil cases, he was assisted¹⁾ by two free settlers. Appeals were heard by the Governor who was advised by the Judge Advocate. The office of the Judge Advocate was not held by a lawyer until the arrival of Bent in 1809 and as neither the military officers nor the Justices of the Peace had much knowledge of English law, the early courts must have known frequent miscarriage of justice. It is almost certain that they were partial or prejudiced and the presence of military officers would give them more the appearance of a court-martial.

1. The Criminal Court was statutory (1787), while the Civil Court was prerogative.

When New South Wales was founded, a detachment of marines had been sent to the colony presumably to act as guards over the convicts and to protect the community. But when their officers refused to take part in convict duty or to assist at civil trials, the marines were replaced by the New South Wales Corps which was raised in 1789 and whose commanding officer, Major Grose, was also Lieutenant-Governor of the colony. From 1792 to 1795, between the departure of Phillip and the arrival of his successor, Hunter, the government of the colony was administered first by Grose and for the last nine months of the period by Paterson. This interregnum was a serious occurrence for a young and struggling colony and had far-reaching results. In the first place, the officers of the regiment, finding the government so lax, took the opportunity to acquire from the Lieutenant-Governor grants of large areas of land, and all members of the Corps, from the commanding officer down to the youngest drummer boy, had no difficulty in having convicts assigned to them as servants.¹⁾ But the greatest evil that arose at this time was the entrance of the officers into general trade of which they secured a monopoly. The most profitable commodity of trade was rum, as spirits of all kind were called. By combining in agreement not to overbuy or undersell each other, they were able to purchase the complete cargoes of ships arriving at the port and consequently they made huge profits.²⁾ Rum bought at 7/6 per gallon was sold for £8. It was virtually the colonial currency. Hunter, King and Bligh

1. Cambridge History of the British Empire Vol. VII Pt.1. p. 72.

2. Ibid.

all endeavoured to bring the Corps under control but with little success. Hunter (1795-1800) restored the civil magistracy which had been in abeyance but in his attempt to stop the trade of the officers he was not supported by the home authorities who listened to anonymous charges against him and recalled him in 1800. King (1800-06), a much stronger ruler than Hunter, met with more success. The British Government gave him more support and the officers were ordered to give up their trading activities. No rum was to be landed without the Governor's permission and he struck at their monopoly by opening a government store and by encouraging non-military traders. He met with opposition and defiance and seemed glad to be relieved in 1806 by Bligh. King, no doubt, was often high-handed and unconstitutional in his methods but he made a vigorous attempt to rule for the good of the colony. His administration was business-like and economic. He encouraged agriculture and requested the Government to send out 50 free, skilled farmers with small capital so that more food might be produced in the colony. He instituted a currency and a newspaper, the Sydney Gazette (1803).

Bligh's term of office was short (1806-08). The reputation he had gained as a disciplinarian in the Royal Navy led the home authorities to think that he would subdue the New South Wales Corps but his attempts to do so brought about his deposition by that Corps, following on what was really a personal quarrel between the Governor and an ex-officer, John Macarthur. This action led to the removal of the Corps and the change of its title to the 102nd Regiment. It was replaced by the 73rd of which the new Governor, Macquarie, was Lieutenant Colonel. The colony thus got its first military governor and the twelve years of his

administration were momentous ones not only for New South Wales but for the other colonies which were to be formed in Australia.

Macquarie (1809-21) considered the colony purely as a convict settlement, the aim of which was to reform those who had been transported. If free men migrated to the country, they would have to put up with the conditions they found there as they knew beforehand that it was a convict settlement. Macquarie frequently expressed his dislike for free settlers and regarded the Emancipists as the best pioneers. The Emancipists were those who had been transported but who, having served their term or having had their sentences remitted, were now free men again. Macquarie insisted on appointing such men to positions of trust in the colony and treating them as if they had never been convicted, often regardless of the life they were leading after regaining their freedom. This policy led to clashes with the civil and military officers and with those settlers who had never been convicts. Macquarie was probably the kind of governor visualised by British statesmen when the colony was first settled. He was an autocrat who brooked no opposition or unpalatable advice. He chafed under the slight curb exercised on his authority by the Judge-Advocate and the Judge of the Supreme Court, and often while pursuing his policy of treating the Emancipists as if they had no unfortunate past to be lived down he adopted high-handed and even illegal methods which made the free settlers tremble for their rights as British citizens. Active opposition came directly from Jeffrey Hart Bent who had been sent from England to preside as judge over the Supreme Court which was established in 1814 and whose chief concern was to prevent Emancipist lawyers from appearing in his court. The free immigrants were championed by Sir John Jamison;

the Emancipists by Dr. Bland an ex-naval surgeon who had been transported for killing his opponent in a duel. The free-born Australians found an active leader in William Charles Wentworth who for many years played a prominent part in the development of New South Wales,¹⁾ while the opponents of Macquarie's emancipist policy - the Exclusionists - were led by John Macarthur, the founder of the Australian wool industry, his son, James, and his nephew, Hannibal Macarthur. The colony had undoubtedly reached a stage when a definite pronouncement as to its future was necessary and the British government should have laid down a policy for governors to follow in dealing with the position of the emancipists, the free immigrants and the free born settlers and the whole convict system. Complaints began to reach the authorities in England and the government's policy was criticised in the House of Commons by Sir Samuel Romilly, the Hon. H. Grey Bennett and William Wilberforce. Wentworth published in England in 1819 "A Statistical, Historical and Political Description of the Colony of New South Wales" in which he advocated representative government and trial by jury and the "Edinburgh Review" gave it prominence in a review. In 1819, also, a petition signed by over 1200 persons in New South Wales, landholders, merchants, clergy, and others, was sent with Macquarie's permission to the Prince Regent setting forth the disabilities under which they lived and begging for the establishment of trial by jury and the removal of certain trading restrictions. No mention was made of representative government because of lack of unanimity on the subject.

In 1819 J. T. Bigge was sent from England as a commissioner to inquire into the whole administration of New South Wales and

1. These three parties made common cause in later years.

Van Diemen's Land.

Macquarie had tendered his resignation as early as December, 1817, but Lord Bathurst refused to accept it and it was not until four years later that he was enabled to leave the colony. During his governorship, the population had increased from over 10,000 to over 30,000. The Blue Mountains had been crossed, Bathurst, the first town west of the ranges had been founded, roads, bridges and other public works had been undertaken, more land was being used for agricultural and pastoral purposes, the Bank of New South Wales and a savings bank had been established in 1817, and the Governor had caused better buildings to be erected in Sydney. Following on the report of the House of Commons Committee on Transportation, 1812, changes had been made in the judicial system. In 1814, two courts had been set up, the Governor's Court and the Supreme Court. The former was presided over by the Judge Advocate assisted by two respectable inhabitants as justices of the peace and was to hear cases in which the amount at issue was less than £50. The latter consisted of a Chief Judge and two magistrates appointed by the Governor and was to deal with cases involving more than £50. There was no appeal from the Governor's Court but from the Supreme Court appeals might go to the Governor who would be advised by the Judge Advocate. If the amount concerned were over £3,000 an appeal might be taken from the Governor to the Privy Council. The Criminal Court remained unchanged. In 1816, all restrictions on free immigration to New South Wales were abolished and settlers with capital were encouraged by generous grants of land. Any man with the power that Macquarie had would have made mistakes and failed to please various members of the community.

His faults, therefore, are due as much to the system as to the man

and he can safely be placed among the builders of Australia. Not the least important result of his regime was the first development of political aspirations which bore fruit in the political experiments of the remainder of the century.

John Thomas Bigge was a London lawyer who had been Chief Justice of Trinidad. He was appointed by the British Government at a salary of £3,000 a year to inquire into "all the laws, regulations and usages of the settlement of the territory and its dependencies, and into every other matter or thing in any way connected with the administration of the civil government, the superintendence and reform of the convicts, the state of the judicial and ecclesiastical establishments, the revenue, the trade and resources." He was accompanied as secretary by Thomas Hobbes Scott, a wine merchant who had been in the consular service in Italy and who later became Archdeacon of Sydney. They arrived in New South Wales in 1819 and spent 16 months making investigations, 4 months of which were spent in Van Diemen's Land. On his return to England, Bigge furnished the House of Commons with three reports. The first dealt with the transportation of convicts and their treatment in New South Wales; the second with the administration of justice; the third with agriculture and trade. Scott also¹⁾ made a report on education.

Bigge dealt with New South Wales purely as a convict settlement to which a few free settlers came who were entitled to special consideration. He was strongly opposed to Macquarie's treatment of the Emancipists and he does not appear to have noticed the signs which marked the growing political aspirations of the population. Perhaps this can be accounted for by the fact that he spent a great deal of this time with the wealthy Exclusionists like Macarthur. The reforms which followed during the next few

1. For Bigge's instructions see Parl. Pap. 1823.XXV. and for his report, Parl. Pap. 1822.XX 448.

years are certainly not due exclusively to Bigge's reports. As long ago as Governor Hunter's administration (1795-1800) an advisory council to assist the Governor had been talked of but Bigge did not mention such an institution in his report. The Committees of 1812 and 1819 had also advocated such a council and Wentworth had advocated representative government in his book in 1819 but the establishment of it was the result of Macquarie's actions rather than of Bigge's report. Bigge made no mention of a Council or Assembly and he considered it too soon to establish trial by jury, though the Crown should be empowered to establish it when the time was considered ripe. It was to be employed at first in civil cases only. If the free population could not supply a sufficient number of persons suitable to act as jurymen, it was obvious that the colony could not be granted representative government. The population needed to be educated better in order to be worthy of such institutions. Scott's report on education was, therefore, of particular interest and the Government adopted his scheme in "The Church and Schools corporation" (1824) which established the first education system in Australia. It was placed under the control of the Anglican Church.¹⁾ Bigge's recommendation that a Colonial Agent should be appointed in London to represent New South Wales and Van Diemen's Land, though by no means a new idea, was adopted in 1824, when such an agent was appointed to devote his attention to commercial and financial matters connected with those colonies - a sign that their purely penal character had gone. This official is not to be confused with the Parliamentary Agent of a later date. "From the

1. The colonists' protests against the control of education by one Church led to the revocation of this charter.

constitutional standpoint Bigge's Reports must be regarded as retarding the introduction of fuller constitutional privileges to the free colonists of New South Wales.¹⁾

In order to give definite powers of legislation and taxation, the British Parliament in 1823 passed the New South Wales Judicature Act²⁾ and the colony took a step towards the attainment of self government. This act was passed to provide for the administration of justice in, and for the government of, New South Wales and Van Diemen's Land. Trial by jury was not introduced at once. The old court composed of naval or military officers was retained for criminal cases but individual members of the court could be challenged. The office of Judge-Advocate was abolished and his duties were divided between the Judge of the Supreme Court and the Attorney-General. To replace the Governor's Court, a Court of Requests was set up to decide disputes in which the amount concerned was less than £10, while courts of Quarter Sessions dealt with the less serious criminal cases. In the Supreme Court, civil cases could be tried before a civil jury if both sides agreed but only when the amount in dispute was less than £500. Jurors had to be holders of property in freehold of high value,³⁾ and Emancipists were not eligible as jurors until the acts of 1832-3.

A council consisting of from 5 to 7 members was nominated by the Crown to advise the Governor. It would not initiate legislation but only deal with proposed laws submitted to it by the Governor who if supported by one member or in case of rebellion could overrule its vote on any subject pending reference to the Imperial Government. Dissenting members had the right to have their reasons inserted in the minutes of the meeting while the Governor was

1. Sweetman: Australian Constitutional Development. p. 40.
 2. 4 Geo. IV. C. 96.
 3. 50 acres of cleared land or a house worth £300.

was obliged to state in the minutes his reasons for over-ruling the wishes of the majority of the Council. "The early government was little in accord with principles applicable to free settlements, and much that was done in the name of authority had a very slender basis of law to support it. The uncertainty as to the legality of the Government was met by the Statutes 4 Geo. IV. C. 96. and the Charters of Justice of the 13th of October, 1823, and by 9 Geo. IV. C. 83. Although the Act under which the Colony was founded (27 Geo. III. C. 2.) contemplated the establishment of 'a colony and civil government', the true foundation of civil as distinguished from military government dates from 1823. A Supreme Court with the ordinary adjuncts of a common law court as contrasted with those of a Court Martial was established, and the Ordinances of a Council equipped by Statute with Legislative power took the place of the doubtful regulations of the Governor.¹⁾"

The provisions of this act were to be in force until July 1st., 1827, when, presumably, the British Government would reconsider them. The concessions were considered inadequate by Wentworth and others but as in the case of the Quebec Act of 1774 where the line of cleavage was due to nationality and religion, so now in 1823 when parties were divided by the Emancipist question, the British Parliament thought it was not yet expedient to call a Legislative Assembly. However, the changes were but the beginning of the constitutional progress of the next two or three decades, and they bring to a close the first well-defined period in the constitutional history of New South Wales.

The first Legislative Council of New South Wales met in 1824.

1. Moore: The Constitution of the Commonwealth of Australia (2nd. ed.) pp. 9-10. For the Charter of Justice (Oct. 13th. 1823) see Parl. Pap. 1834. XLIV. 323. pp. 3-9.

It consisted of 5 members, all of them officials, and was presided over by the Governor, Sir Thomas Brisbane. The act did not make the Governor's attendance at the discussions compulsory and both Brisbane and his successor, Darling, usually withdrew once they had submitted the proposed legislation to the Council. Brisbane left a great deal of work to his officials and this tended to increase the influence of the Exclusionist party the members of which were mainly holders of large estates for this was a period of increased activity in immigration and the day of the big capitalist landowner seemed to have come. However, the reactionary tendencies of the big landowners were checked from two sources. The first was the Chief Justice, Francis Forbes, who had had much to do with drawing up the Act of 1823. He was a liberal-minded man and besides being a member of the Council he had to certify that proposed legislation was not repugnant to the laws of England. He was thus able to exert some influence in stemming the tide of reaction. Moreover, his correspondence with Colonial Office officials kept them well informed as to conditions existing in New South Wales as well as suggesting improvements in government.

Another check was the establishment of freedom of the press. In 1825, Wentworth returned from England and, with Wardell, established a newspaper, The Australian. The only other paper before this was The Gazette, a semi-official publication containing government notices and news which had been censored by the Governor or his secretary. When The Australian was published without any censorship, the publishers of The Gazette applied to Brisbane for the removal of the censorship to which they were submitted. Brisbane granted their request and so the press of New South Wales became free. The

Australian became the leader of the popular party in politics. Just before Brisbane's departure from New South Wales in 1825, the leading members of the popular party, in presenting him with a farewell address, expressed the hope that the colony would soon receive trial by jury and representative government. In reply, Brisbane stated that he thought the time was at hand when free institutions should be bestowed on the colony. This statement rather alarmed the Exclusionists who petitioned the British Parliament to grant not an elected Legislative Assembly but an enlarged Legislative Council.

Darling, who succeeded Brisbane, increased the number of members of the Legislative Council to 7. This, the third, Legislative Council of New South Wales contained three non-official members one of them being John Macarthur, the leader of the Exclusionists, while the other two, Campbell and Throsby, were also of the same party. The proceedings of the Council were carried on behind closed doors and the members were bound by an oath of secrecy not to reveal anything that took place at the meetings. Darling also had instructions to set up an Executive Council. The Governor was normally to consult this Council and to take advice from nobody but its members, but he could over-rule it.

Darling's first Executive Council was composed of four members of the Legislative Council. Nevertheless, Darling took a very active part in the government of the colony. He had had considerable experience of military administration and it is said that he expected the same instant and explicit obedience from the colonists as he had been used to from soldiers. One incident of his administration serves to show the change that had taken place since the days of Macquarie. The Governor was severely

criticised by the Press in connection with the punishment of two soldiers, one of whom subsequently died. He was so annoyed by the criticism that he proposed to pass a law for licensing newspapers and for imposing a stamp duty on them. Forbes refused to certify that the proposed legislation was not repugnant to the laws of England and so the freedom of the press was preserved.

The provisions of the Act of 1823 were to cease to have any force after July 1st., 1827, and, as the time for revision approached, political activity increased. In 1826, the reformers had presented an address to Darling in which they expressed their regret at not being permitted to elect the non-official members of the Legislative Council and they stated that a constitution such as those possessed by Upper and Lower Canada where the upper Houses were nominated and the Lower elected "can alone make us happy and contented people."¹⁾ This address was forwarded to the Colonial Office and received without comment. Towards the end of 1826, Darling suggested in a secret and confidential dispatch to the Colonial Office, that the Legislative Council should be increased to 12 members, half of them officials, the other half landowners and merchants. Macarthur had suggested to Darling a Council of 15 members, but the Governor considered his own plan the better.

A short time afterwards, the reform party decided at a large public meeting held in Sydney to petition the King, the House of Lords and the House of Commons for complete trial by jury and an elected Assembly. As the British Government had recently asked the inhabitants to pay the entire cost of its civil government, they felt justified in asking for representation, thus making the

old cry "No taxation without representation." The petitioners suggested that the Assembly should consist of 100 members. This number was out of all proportion to the number of electors but they felt that in such a number, the representatives of the reform party would not be over-ruled by those of the reactionary landowners.

Meanwhile the Act of 1823 had been extended to Dec. 31st. 1829, but in 1828, the British Parliament passed another act¹⁾ for the administration of justice in, and for the more effectual government of, New South Wales, and this took effect in 1829.

The Act was a cautious measure and showed the influence of Darling's suggestions of 1826 - 27 and of the opinions of the Macarthur family. Henceforth, the Legislative Council was to consist of from 10 to 15 members nominated by the Governor, of whom 7 were to be non-officials. Laws were still to be proposed by the Governor but the Chief Justice no longer had to certify to them. When passed, they were to be sent to be recorded by the Supreme Court. If they were not consistent with the laws of England, all the judges must protest within 14 days but the Governor could still enforce the laws until a decision was obtained from the British Government. Summaries of proposed legislation were to be supplied to the press 8 days before the Legislative Council discussed it and the members were no longer required to take an oath of secrecy. Finally, the Governor was to preside and remain in the chair during discussions but the public were not admitted until 1838. This was a^{less} liberal measure than the current practice.

1. 9 Geo. IV. C. 83.

This Act "superseded the temporary provisions of the Act of 1823 and while confirming the Supreme Court and the Legislative Council, the Act also set at rest doubts concerning the law in force in the Colony. Section 24 of the Act provided 'that all Laws and Statutes in force within the Realm of England at the time of the passing of this Act (not being inconsistent herewith, or with any Charter, or Letters Patent, or Order in Council which may be issued in pursuance hereof) shall be applied in the administration of Justice in the Courts of New South Wales and Van Diemen's Land respectively, so far as the same can be applied within the said Colonies.' This has been construed as not applying merely to procedure on the one hand, nor introducing the whole law of England on the other, but putting the Colony in the same position as if it had been founded on the 25th of July, 1828.¹⁾" The clauses relating to the administration of justice provided that trial by jury might take place at the discretion of the Court if either party asked for it. Formerly, both had to agree to a jury. Civil juries were done away with in the Court of Quarter Sessions and the grand jury which had been in use for the last four years, was also dispensed with. These were reactionary changes. The Governor could be given by the Crown, and was given in 1830, power to extend trial by jury when he thought fit. Circuit courts were provided for places outside Sydney and finally English law was to apply except where it was impossible through unavoidable circumstances. The Act was to be in force for 7 years after which further concessions might be expected.

The Act of 1828 did not satisfy the people of New South Wales

1. Moore: Op. Cit. p. 10.

and their efforts to secure representative government and trial by jury were continued. It was rather fortunate for the leaders of the movement that during these years of political agitation they had as Governors two men such as Bourke and Gipps who, though sympathising with the movement, were able to communicate to the Colonial Office clear and impartial accounts of the condition of the colony and at times make suggestions as to the policy of that department. During the thirties, colonial affairs were frequently before the British Parliament and the public generally. Wakefield was airing his schemes for systematic colonization and had a large and influential following. Affairs in Canada produced the famous report of Durham which did so much to change the attitude of the Mother Country to her colonies. The people of New South Wales were by no means inactive. By petition and counter-petition, they let the British Parliament know the wants of the two political parties so that, with the publication of books on New South Wales by several prominent residents, that body had no excuse for being uninformed on this subject at any rate.

Early in 1830, the Emancipists prepared another petition which was published in the newspapers as well as being printed separately for distribution. In this they once more asked the House of Commons to grant them "legislation by representation" and trial by jury, pointing out that the free population was increasing, that taxation averaged £5 a year for every free inhabitant and that the recently formed colony at the Swan River had been promised free institutions. This petition was forwarded to England about the middle of the year and it was another twelve months before it was presented to the House/ Commons by Bulwer, the Parliamentary Agent of the colonists. In his speech, Bulwer drew attention to the fact that the West Indian colonies possessed Legislative Assemblies

and trial by jury even though the population of some of them was less than that of New South Wales. In reply, Lord Howick drew attention to the strong feeling that existed between the two political parties, the Exclusionists and the Emancipists, and said that it was impossible to grant representative government when there was the likelihood that ex-convicts would be elected. Bulwer's motion that the King be requested to grant some system of legislative representation was consequently lost. As for the request for trial by jury, this problem had been solved since the petition had left Sydney. Governor Bourke arrived at the end of 1831, and early the next year he made some important innovations. He promised to publish an account of the proceedings of the Council so that the public would know what was being done and be able to criticise. He also presented an estimate of the public expenditure for the coming year, a proceeding which in a despatch of June, 1832, the Colonial Office ordered to be carried out every year. Convinced that conditions were now favourable, he took advantage of the authority given him by the Act of 1828 to extend the jury system. First, provision was made for the use of a civilian jury in cases in which the Governor, the Army or the Navy were concerned. Then, in 1833, an act gave trial by jury in criminal cases both in the Supreme Court and in the Court of Quarter Sessions, Emancipists being eligible to act as jurors providing they had not been re-convicted. As a sop to the Exclusionists, an accused person was still permitted to have the old military jury of 7 officers if he wished but this was abolished in 1839. The colony was certainly progressing, even though slowly, along the road to self-government and had now reached what Lord Goderich, in a despatch to Bourke, called "a species of

intermediate control." Early in 1832, Bourke kept his promise and commenced to make available for the press summaries of the proceedings of the Council. The public availed itself fully of this opportunity for criticism. Eight newspapers were published weekly and at a low enough price for everyone to buy and, as Bourke knew, their influence was strongly marked among all classes of the population.

The next wish of the colonists was expressed in what has been called "The Open Door Petition", which was presented to the Governor in 1836, requesting him to admit the public to the debates of the Council as was done in the Legislative Council of the Cape Colony. Though they received no answer from Bourke, his despatch of Dec. 25th. 1833, written two and a half years before the petition, shows what were his objections to making the debates public. He maintained that loss of dignity would follow if the public were permitted to hear his actions criticised in his presence while he was unable to take part in the debate. Moreover, no similar councils which were open to the public were presided over by the Governor. This same petition was presented to Bourke's successor, Sir George Gipps, and was approved by the Legislative Council in 1838.

The colonists had followed the course of the Reform Act of 1832 with the greatest interest and the English reform movement no doubt had considerable influence on their own political movements. Accordingly at a public meeting held in Sydney in January, 1833, it was decided to petition the Home Government once more. This time they asked for a Legislative Assembly of at least 50 representatives. This number was chosen as a minimum in order to secure the attendance of a sufficient number, the population being scattered, and also to avoid the predominance

of any one particular party. The petition was not forwarded to Bulwer until 1834 and he did not present it to the House of Commons until 1835. It was favourably received and appeared to impress many members with the justice of the requests but Sir George Grey, the Under-Secretary for the Colonies, would not do more than promise that, when the 1828 Act had to be revised, the petition would receive serious consideration.

How good a friend the colonists had in their Governor is shown by his despatch of Dec. 25th, 1833, in which he proposed a council of 24 members, two-thirds being elected, the remainder nominated. Elections and nominations were to take place every four years and only free-immigrants and free-born Australians were to be eligible but the vote was to be given to all who were qualified to act as jurors. He added that gradual change towards a more liberal form of government would be much better than waiting until conditions in New South Wales made a much greater change inevitable.

The failure of this petition and the advice which Bulwer gave as to the necessity for greater publicity in England for conditions in New South Wales led to the formation in 1835 of the Australian Patriotic Association under the leadership of Wentworth, Bland and Jamison. One of the objects of the Association was to finance a member of the House of Commons who was to act as a Parliamentary Agent to give prominence to New South Wales and its needs both in Parliament and in the press. Bulwer and, before him, Sir James Mackintosh, had acted gratuitously in this capacity but the Association wanted the office to be made permanent and to be a charge on the revenue. When Bourke referred the matter to the Home Government, it was emphatically refused. However, members of the House of Commons acted as agents from time to time and the

expenses they incurred were defrayed by the Association or by public subscription.

The members of the Association were not unanimous as to the constitution they wanted for New South Wales. Wentworth proposed two houses but Bland wanted nominated and elected members to form one house. Two proposed bills were therefore drafted. But the formation of the Australian Patriotic Association alarmed the Exclusionists who, under the leadership of several members of the Macarthur family, formed a rival Association. While supporting an increase in the number of members in the Council and the throwing open of the debates to the public, they were opposed to representative government because they held that Emancipists and free colonists could not agree well enough to work side by side in free institutions. The inevitable petitions were drawn up. That from the Patriotic Association asked for either one house composed of nominated and elected members in the proportion of one to three or two houses, one nominated the other elected. The number of nominated members suggested in the letters of advice accompanying the draft Bill, was to be not more than 15, of elected members not less than 50. Elections and nominations were to take place at least once every three or four years and the whole act was to be revised after seven years. This petition which was sent to Bulwer in 1835 met with much opposition in England and in New South Wales from the Exclusionists who were also sometimes called Anti-Whigs or the Plutocracy. Their petition opposed practically everything that was contained in that of the Patriotic Association and asked for an inquiry into the condition of New South Wales. Bourke forwarded this petition and another from the Patriotic Association with an explanatory letter which

was decidedly in favour of the Association.

The year 1837 was an important one in the constitutional development of New South Wales. First, the rival petitions were received at the Colonial Office. Then appeared the second edition of the Rev. Dr. Lang's "An Historical and Statistical Account of New South Wales" and another work by the same author, "Transportation and Civilization." Then came James Mudie's "The Felonry of New South Wales" and another work on New South Wales by James Macarthur. The information and proposals for constitutional reform set forth in these books tended to retard the progress of the reform movement. Buller, the Parliamentary Agent who had done so much for the movement, entered the diplomatic service and his successor, Charles Buller, went to Canada with Durham in the following year. Moreover, the rebellion in Canada in 1837 made the British Government cautious in making any changes. On the other hand a report on the petitions made by Chief Justice Forbes at the request of the Colonial Office helped to clear the atmosphere. ~~Macarthur~~ Partly through the influence of Wakefield and his supporters, a committee was appointed "to inquire into the system of transportation; its efficacy as a punishment; its influence on the moral state of society; and how it might be susceptible of improvement." Pending the issue of its report, the Act of 1828 was to be in force for another year. The chief recommendation of the committee was that transportation should cease and an Order - in - Council was issued in 1840 making it illegal to send convicts to New South Wales. Meanwhile, the Colonial Office drew up a proposed constitution for New South Wales and submitted it to Buller who rejected it. Then Buller and Macarthur drew up another which attempted a compromise but when it came before Parliament in 1839, most of it was rejected, much to the relief of the Patriotic

Association whose members had never approved of it.

In 1839, Gipps who had succeeded Bourke, sent to the Colonial Office a proposed constitution and in 1840, Lord John Russell introduced a bill to give New South Wales a blended house, i.e. one containing both nominated and elected members, but it was withdrawn at its second reading. Another act in the same year, made provision for the removal of New Zealand from the jurisdiction of the Governor of New South Wales. The attempt of the Home Government to divide New South Wales into three districts, a proceeding which would have been disastrous to the colony, served to unite all parties in protest so that they found themselves able to sign the same petition for once. This display of unity had its effects and in 1842, the British Parliament passed "An Act for the better government of New South Wales and Van Diemen's Land."¹⁾

By this act, the Legislative Council was to consist of 36 members, 12 of whom were nominated, not more than 6 being government officials. Nominations and elections were to take place every 5 years, and there was to be at least one session a year. Electors were to be free men with freehold land of £200 clear value or a house worth £20 per annum. Before being elected, a candidate had to have freehold property in New South Wales worth £2000 or have an income of £100 per annum. Legislation was not to be repugnant to the laws of England and the Council could not interfere with the sale of Crown lands or with the revenue therefrom. The Governor had the right of veto and could send bills to England for the consideration of the British Government. No money could be voted unless suggested by the Governor. A Civil List of £81,600 including £30,000 for public worship was put beyond the Council's control for the maintenance of essential Government services. A Speaker was elected by the Council but the Governor could disallow

1. 5 & 6 Vic. C. 76.

any nomination. The number of members could be increased as long as one-third of them were nominated. Provision was also made for local government and for the separation of colonies from New South Wales. The boundaries of New South Wales were definitely stated and if new colonies were established by separation, they were to have Legislative Councils of not less than seven members.

The first Council under this act met on August 1st., 1843, and contained six representatives of the Port Phillip District.

2. Tasmania.

The presence of French explorers in Australian waters during the early years of the 19th Century led Governor King to establish some new settlements in order to strengthen the British hold on Australia. In 1803, he sent Lieutenant Bowen whom he had commissioned as "Commandant of the Island of Van Diemen" with a small party of marines and convicts to settle on the shores of the River Derwent in the south of Van Diemen's Land and at the same time urged the British Government to send an expedition to occupy Port Phillip which, meanwhile, he was having surveyed. Bowen settled his party at Risdon Cove, some miles from the mouth of the Derwent, and at once commenced farming.

Lord Hobart, the Secretary of State for the Colonies, acting on King's advice, sent Collins to Pt. Phillip to commence a settlement with nearly 300 convicts, their guards, and a number of officials. Collins chose a very unsuitable spot for landing, stayed there for some months without trying to find a better one and then transferred his company to the River Derwent at the beginning of 1804. Here he chose a spot at Sullivan's Cove a few miles nearer the mouth of the river and on the opposite shore

from Risdon. Collins became Lieutenant-Governor of the new colony and was subject to the Governor of New South Wales (February, 1804).

In the same year, King sent another party under Lieutenant Colonel Paterson to settle on the River Tamar in the north of the island and a spot was chosen not far from the sea and named Yorktown but in 1806, the settlement was removed to the head of the Tamar estuary at the present site of Launceston.

Until 1813, there were two Lieutenant Governors in the island but in that year one was appointed to administer all the settlements.

During the course of his inquiry into Australian affairs, Bigge spent four months in the island and saw the inconvenience caused by dependance on Sydney for the administration of justice and government generally. Consequently, the Judicature Act¹⁾ of 1823 was made to apply to Tasmania and the colony was removed from the control of the Governor of New South Wales in 1825. A nominated Legislative Council of from five to seven members was instituted and the new Lieutenant Governor, Colonel Arthur, was given the same powers under the Act as was the Governor of New South Wales and, although he was still called Lieutenant Governor, he was in no way subordinate to the Governor at Sydney. The Act of 1828 also applied to Tasmania and the Council was enlarged to 15 members but Arthur was opposed to the extension of free institutions. The colony was progressing rapidly and had a comparatively large trade so that the free

1. Section 44 empowered the Crown to erect Van Diemen's Land into a separate Colony independent of the Government of New South Wales. The island was proclaimed a separate Colony on Dec., 3rd. 1825.

population was prosperous and fairly contented. Arthur was a stern disciplinarian and kept the convict population under severe control but maintained that, as the colony was essentially a convict settlement, the free population could not expect the reforms that were being made in New South Wales.

Arthur was succeeded in 1837 by Sir John Franklin, a very different type of man. He admitted the public to the debates of the Council and introduced trial by jury but these concessions increased the agitation for representative government. Arthur had often advised the British Government against granting representative government while there was such a big convict population. Franklin was not in favour of the cessation of transportation but did suggest representative government. The British Government strongly opposed the grant of representative institutions as long as transportation continued. In 1840, when transportation to New South Wales was discontinued, Tasmania was flooded with convicts at such a rate that free immigration was retarded, there was a glut of convict labour and free men were driven from the colony. To try to remedy conditions, the British Government ceased sending convicts to Tasmania for two years, but when transportation was renewed, the colony had to suffer a fresh spate. The most iniquitous feature was that the colony had to bear the cost of gaols and police to cope with the offenders the Mother Country so generously supplied. The system was continued with schemes which, though intended to remedy its defects, only aggravated them and it is not to be wondered at that, in spite of agitations, petitions and leagues, the colony was not progressing and that by the middle of the century representative government had not been established. When the

representative principle was introduced into New South Wales in 1842, all that was done for Van Diemen's Land was to make permanent the arrangements of the Act of 1828 and to increase the number of members of the Council.

3. Western Australia.

Just as in 1803 and 1804 fear of French occupation led to settlement in Tasmania, so more than 20 years later it led to the first settlement in Western Australia. In 1826, Governor Darling sent Major Lockyer with a party of convicts and their guards to establish themselves at King George's Sound, the site of Albany, in the south west of what is now known as Western Australia. At the same time, he asked the Secretary of State for the Colonies to extend his jurisdiction over the whole continent but this was refused.

The next year, Captain Stirling carried out an examination of the Swan River and was so impressed with the surrounding country that he urged the formation of a settlement there. Darling was in favour of the suggestion and communicated with the Colonial Office but the British Government was definitely averse to spending any money on such a proceeding.

In 1828, Captain Stirling and Major Moody approached the Colonial Office with a view to obtaining a proprietary charter similar to those issued in the case of Pennsylvania and Georgia but the Government was not agreeable to the surrender of so much power. In order to strengthen the British claim to the country, the Admiralty sent a ship to take possession in the name of Great Britain of all the continent not included in New South Wales and the ceremony was carried out by Captain Fremantle in 1829. The operations of a great number of whalers from the

United States increased the willingness of the British Government to allow settlement to take place and the East India Company was sounded on this point but without result. However, Thomas Peel began the formation of a company and applied to the Government for a grant of 4,000,000 acres at 1/6 per acre in return for which 10,000 immigrants would be landed in Western Australia at a cost of £30 per head and each immigrant would be allotted 200 acres. The Colonial Office agreed to a grant of 1,000,000 acres and each immigrant was to get 40 acres for every £3 he invested, the land to become his freehold property provided he spent 1/6 per acre on improvement to within the first three years. Stirling was appointed governor and arrived at the Swan River on June 1st, 1829, with 55 settlers. By the end of the year the settlement contained 1300 people. For several years, the colony made practically no progress and was considered a failure by most people. Wakefield readily ascribed its lack of success to the land system but while that may have been one of the factors, there were others. The population was scattered and there were no roads for communication. The settlers were unsuitable and quite inexperienced while the labourers were incapable. There was insufficient capital available, speculation took place, the blacks were troublesome and much of the land was not suitable for agriculture. That the colony endured at all was due to the energy for Stirling who was governor until 1838.

In 1829, the British Parliament passed an act¹⁾ providing for the appointment of three or more persons to form a Legislative Council for the colony. This was put into force in 1832 when four officials and the Lieutenant Governor constituted the

1. 10 Geo. IV. C. XXII.

Legislative and Executive Councils. The laws which were proposed by the Lieutenant Governor were subject to disallowance by the Secretary of State and reporters were admitted to the debates. A civil court was also established and trial by jury was compulsory in criminal cases and in civil cases involving over £100 if either party demanded it and would bear the expense.¹⁾ In 1832, Stirling visited England to lay before the Colonial Office the proposals of the colonists for remedying the state of affairs in the colony. One result was the addition in 1838 of four non-official members to the Council but this did not satisfy the colonists who wanted representative government and who, in 1832, in petitioning for representation of the mercantile and agricultural interests, had protested against what they termed taxation without representation.

Regulations for the sale of land which raised the minimum price finally to £1 per acre added to the depression, and, although the colonists strove to develop the export of timber, wool and whale-oil, the colony still made only very slow progress. It was when the eastern colonies were protesting against the continuance of transportation that the West Australians began to see that they might gain some advantages if they admitted convicts to their colony. They argued that convicts would be a means of having desirable public works carried out, their presence in the colony would create a demand for the produce of the farms and farmers would be able to get cheap labour. Many settlers were opposed to the change as the absence of convicts had been one of the inducements

1. For The Charter of Justice, Nov., 1st. 1830, see Parl. Pap. 1834. XLIV. 323. pp. 16 - 17.

to settle in Western Australia but most were won over on the grounds of expediency.

In 1847, "landowners, merchants and inhabitants" petitioned the British Government to make Western Australia a convict settlement. Their request was granted and an equal number of free immigrants was also to be sent to balance the addition of convicts to the population. The first convicts arrived in 1850 and the colony soon began to feel the benefit of the change for the system as applied to Western Australia was far different from that with which New South Wales and Tasmania were familiar. When transportation was discontinued in 1868, some 10,000 convicts had been received, and the worst of the colony's troubles had been overcome. "For an expenditure of some £2,000,000 and the transportation of 10,000 undesirable citizens, the motherland conferred stability¹⁾ on the Swan."

4. Victoria.

The failure of Collins to form a colony at Port Phillip in 1803 has already been mentioned in connection with the settlement of Tasmania. The second French scare led to the short-lived settlement at Westernport where for just over a year (1826 - 28) a party of about 50 consisting of convicts and soldiers remained to assert Great Britain's claim to the southern part of the continent.

For some time unofficial settlements had been made in convenient bays by those engaged in the pursuit of the whales and seals of Bass Strait but they were not intended to be permanent.

1. Cambridge History of the British Empire. Vol VII. Pt. I. p. 239.

But in 1834, Edward Henty visited Portland Bay on the southwest coast of what is now Victoria and was so impressed by the suitability of the land for grazing purposes that he returned to Tasmania for his brothers so that they might remove their stock and other belongings and establish themselves there. Thomas Henty and his seven sons had been among those attracted to the Swan River colony but when it did not come up to their expectations they had migrated to Tasmania. Now in November 1834, four of the brothers founded the first permanent settlement in Victoria.

Previous to this, in 1827, Gellibrand and Batman, two Tasmanians, had asked Darling for a grant of land at Westernport for pastoral purposes but were refused. Darling did not want the population too scattered and, in 1829, he issued a proclamation forbidding settlement outside of the nineteen original counties of New South Wales, that is, beyond a radius of 150 miles from Sydney.¹⁾ But most of the easily accessible grazing land of Tasmania was now occupied so in 1834 Batman and some other residents of Launceston formed a syndicate to acquire land at Port Phillip. In 1835, Batman visited Port Phillip and, meeting with some blacks, he persuaded them to make marks on a document, drawn up by Gellibrand who was a lawyer, by which he claimed that they handed to him the possession some 600,000 acres. In spite of Bourke's proclamation warning off trespassers, he chose the site of the new settlement and returned to Launceston for the remainder of his party. At the same time, Fawcner, another resident of Launceston, had also formed a company to settle in the Port Phillip district and the rush of settlers began despite the wishes of the Colonial

1. This proclamation failed to prevent the occupation of land outside this area and in 1836 it was superseded by an Act allowing squatters to settle outside the counties on paying a licence fee of £10 per annum.

Office to the contrary. When in May, 1836, Bourke sent a magistrate to report on the affair, he found 177 people living there so that in August, the Governor was obliged to appoint Captain Lonsdale as magistrate and superintendent of the settlement. In March, 1837, Bourke himself visited the settlement and named the village Melbourne after the Prime Minister of the day.

In 1838, a Court of Quarter Sessions was established and the jury system inaugurated. The next year a Court of Requests was set up and Latrobe was appointed superintendent of Port Phillip while in 1841, a resident Supreme Court Judge was appointed in order to avoid the necessity of taking cases to Sydney.

The population of the Port Phillip District increased rapidly and, as early as 1838, there was talk of separation from New South Wales. In 1840, when the population had reached 10,000, a petition was drawn up asking for separation from New South Wales and the grant of responsible government, which probably meant merely local self-government free from control from Sydney. The petitioners pointed out that the revenue collected from the district was much greater than the amount that was expended for the benefit of its population. The accounts of the Port Phillip District had been kept separate from those of New South Wales since 1836 and Governor Gipps was in favour of separation chiefly because of the difficulty of administering the government of such a distant colony, Melbourne being 600 miles from Sydney, but Stanley, the Secretary of State for the Colonies, was opposed to the proposal. A Separation Association was formed to further the movement but the British Parliament ignored the petition it received in 1842 thinking that the act of that year giving the district six representatives in the New South Wales Legislative Council would satisfy the petitioners. But

in this, Parliament was mistaken. The people of Port Phillip had difficulty in finding six representatives who could spare the time and money to go to Sydney and represent them and usually had to depend on residents of Sydney to do this duty. In 1843, they refused to elect any members and then to show how much the grant of representatives was worth to them, they elected Earl Grey, the Secretary of State for the Colonies. In 1846, the Legislative Council of New South Wales had expressed its approval of the separation of the southern district but when the middle of the century was reached Port Phillip was still subject to the control of the legislature of the senior colony.

5. South Australia.

The foundation of a colony in South Australia is particularly interesting because it was the result of an attempt to put into practice a definite theory of colonisation. The years following the close of the wars with Napoleon had been full of unrest and discontent. Especially were the evil results of the Industrial Revolution making themselves felt in poverty and unemployment. England was believed to be over-populated and emigration was suggested as the remedy. In 1829, Edward Gibbon Wakefield published "A Letter from Sydney" in which he set forth opinions on colonisation which are generally known as the Wakefield Theory. In order that a colony might be successful, it was necessary to have sufficient land, capital and labour. If land were cheap, so many would be able to become landowners that there would be no labourers to cultivate the land. He advocated selling the land at what he called a "sufficient price", that is, at a price high enough to prevent its purchase by those who he considered belonged to the class of labourers. The money obtained by the

sale of land was to form a fund which might best be employed in bringing farm labourers to the colony. Wakefield attributed the early troubles of Western Australia to the low price at which the land was sold, resulting in an unbalanced community in which nearly all were large landowners and there were few or no labourers. By his system he wanted to transplant overseas all that he considered good in English society. There would be an aristocracy ruling a community of contented freemen - labourers and farmers. The labour problem would be solved not as in other colonies by slavery or the convict system but by the immigration of carefully selected men and women who would be conveyed to the colony at the expense of the immigration fund raised by the sale of land. Wakefield's little book attracted much attention and among those whom he interested were Grey, Durham, Molesworth, Bulwer, Buller and Rintoul, the editor of "The Spectator", who allowed him to give further publicity to his views through the columns of his journal, for here was "an economic, social and political theory of colonisation calculated to be of equal benefit both to England and her colonies."¹⁾

In 1830, Wakefield formed the Colonisation Society to carry out his views and as the news of Sturt's journey down the Murray had just reached England, attention was naturally turned to the southern parts of Australia. In 1831, the South Australian Land Company was formed and applied for a charter transferring the sovereignty of a large area of unexplored territory but the Colonial Office

1. Cambridge History of the British Empire. Vol. VII. Pt. 1. p. 213.

refused to agree to such a scheme. But the South Australian Association, formed in 1833, was more successful and the British Government agreed to the formation of a colony, the South Australian Company with a capital £200,000 being formed for this purpose. An act¹⁾ was passed in 1834 providing for the appointment of a Governor and a number of Commissioners to supervise the sale of land and emigration. The price of land was fixed at a minimum of 12/- an acre. The Board of Commissioners was to be represented in South Australia by a Resident Commissioner who was not subject to the Governor's control. The Board was to control the revenue of the colony to which no convicts were to be admitted. Provision was also made for granting a constitution when the population reached 50,000 but meanwhile a nominated Council would be empowered to legislate. The Act especially exempted the province from the laws and jurisdiction of any other part of Australia. A naval officer, Captain Hindmarsh, was appointed Governor and the first two ships arrived at Kangaroo Island in July, 1836, where the first settlers remained for some time as no preliminary survey had been made of the proposed colony. Later Colonel Light, the Surveyor-General, chose the site of Adelaide and the work of colonisation began but in spite of Wakefield's theorising, the first years of the new colony were as troublous as those of Western Australia, which Wakefield held up as a horrible example of the results of faulty colonisation. South Australia had the advantage of better soil and a better class of labourer than Western Australia had, but the system of government

1. 4 & 5 William IV. C. 95 under which "The Province of South Australia" was proclaimed.

proved to be unworkable.

Hindmarsh quarrelled with the Resident Commissioner with the result that he was recalled in 1838 and was succeeded by Gawler who combined the office of Governor with that of Resident Commissioner. Gawler had to deal with a very difficult period in the history of the colony. Debts had been incurred, salaries were overdue and those who had bought land, instead of cultivating it, were waiting to sell it at a profit to later arrivals. Thus there was no employment for the labourers whose numbers were increasing as more immigrant ships arrived and who crowded into Adelaide demanding assistance from the Government. To relieve the unemployment, Gawler undertook public works which he financed with bills drawn on the Board of Commissioners. These the Board refused to honour and ruin faced those who had accepted them. In 1841 Captain George Grey succeeded Gawler and by strict economy and retrenchment he set the colony on the road of progress. He persuaded the British Government to honour bills to the amount of £405,000, cultivation took the place of land speculation, and the discovery of copper and other minerals in the '40's assisted the recovery, so that, when he was transferred to New Zealand in 1845, the colony was flourishing. From the beginning, trial by jury had been in use for both civil and criminal cases and the system of grand juries had also been established, though it was evaded, it was said, from 1843 on and abolished in 1852. The colony had not known military government as some of the other Australian colonies had, the press was free and English law was in force, while the Governor submitted details of local expenditure to the Council. This Council consisted of nominated officials but as early as 1839, the colonists had asked for representation by elected members. Following on Gawler's

failure, a committee of the House of Commons which inquired into the affairs of the colony blamed the Act of 1834 and recommended that South Australia should become a crown colony and that some members of the Council should be elected.

In 1842,¹⁾ the Board of Commissioners was abolished and supreme power was vested in the Governor. The nominated Council of seven members was to remain but four members were to be non-officials. Power was also given to set up a representative assembly but this was not acted on until after 1850.

6. Queensland.

The first settlement in what is now the state of Queensland was made in September, 1824, at Moreton Bay. Acting on the advice of Bigge, Governor Brisbane decided to use this site as a settlement chiefly for convicts who had been convicted of offences after their transportation to New South Wales and he also intended that such convicts should clear land and prepare it for occupation by free settlers. For some years it was used as a place of secondary punishment and free settlers were not allowed within 50 miles of it but owing to the expense of its upkeep, Governor Bourke in 1832 advised its abandonment and in 1839, the convicts were withdrawn.

But free settlers were occupying the fertile lands and as early as 1843, the residents of Brisbane and the surrounding districts asked for representation in the New South Wales Council but the request was not granted. Under the Act of 1842, power was given for the formation of a new colony by the separation from New South Wales of the territory lying north of 26° south latitude

1. By 5 & 6 Vict. C. 61.

but it did not take effect and when Queensland was separated the boundary chosen was the 29th parallel.

In 1846, Gladstone, who for a short time was Secretary for the Colonies in Peel's government, decided to resume transportation under a new system. He chose for the new settlement Port Curtis, 350 miles north of Brisbane, and this was to be the capital of Northern Australia, or the Gladstone Colony, to which "exiles" with conditional pardons were to be sent. The colony was duly founded in 1846 but it was no sooner commenced than it was abandoned for Gladstone was replaced by Grey at the Colonial Office. However, owing to the influx of free settlers, Fitzroy left a Government Resident at Port Curtis to protect the rights of the Crown over the land. By the middle of the century, this territory was still under the government of New South Wales.

II SELF GOVERNMENT.

1. The Australian Colonies Government Act 1850.

The agitation of the residents of the Port Phillip District for separation from New South Wales had important results for the Australian colonies for Grey decided that when separation came, he would take the opportunity of revising the methods of governing the colonies. South Australia and Tasmania wanted greater political freedom and New South Wales, bringing forward one grievance after another, kept up a demand for responsible government.

At the risk of repetition, I shall outline the separation movement in the Port Phillip District.

The Sydney Gazette of November 15th, 1838, mentioned the existence of the project in Melbourne but expressed the opinion that there was little likelihood of its being put into effect. Gipps had mentioned the subject earlier in the year and in a despatch to Glenelg (October 1st, 1838) he said that if the British Government wished to prevent the assignment of convicts in the Port Phillip District, separation would have to take place. The desire for separation was strengthened by the fact that the revenue derived from the sale of Crown land in the District was spent mainly on labour in Sydney while there was a shortage of labour at Port Phillip.¹⁾

The publication of Durham's Report in 1839 and its circulation in the Australian colonies stimulated political feeling, for New South Wales asked for responsible government but was refused

1. Sweetman: Australian Constitutional Development, p. 245.

because it was a penal colony. In 1840, the first public meeting about separation was held in Melbourne and a committee prepared a petition asking for responsible government separate from and independent of New South Wales and for free and extended legislative representation suitable to a free state. In the Executive Council in December, 1840, Gipps spoke in favour of separation on account of the difficulty of governing such a distant community but he was opposed by the Council.

On September 13th., 1841, the petition was presented at the Colonial Office. Stanley disapproved of separation but as he had not long been in office, he promised to consider the question. At that time, the Colonial Office had before it the petitions of the Australian Patriotic Association and the Exclusionists as well as the Buller-Macarthur Constitution. The Port Phillip petition was received by the House of Commons on April 28th, 1842, but no discussion took place for, in May, the first reading of the Act for the government of New South Wales and Van Diemen's Land took

1)
place and it became law in July. Provision was made in this act for six representatives from Port Phillip to sit in the New South Wales Legislative Council, but this measure was far from satisfying the residents of that district.

In 1843, the first Port Phillip representatives took their seats and the same year, on the motion of Dr. Lang, a statement of the revenue and expenditure of Port Phillip from its foundation until 1842 was tabled. The next year was a year of petitions. The District Council of Bourke, the residents of Port Phillip generally and the Mayor and Council of Melbourne petitioned for

separation, pointing out the existence already of a practically separate administration for Port Phillip, the jealousy over the appropriation of revenue, the impossibility of adequate representation in Sydney, the moral benefit of independence, the independent origin of Port Phillip and the precedent of the separation of Van Diemen's Land from New South Wales in 1825.

But Robert Lowe was the only member of the Council who supported the Port Phillip representatives.

In 1845, the Town Council of Melbourne sent another petition requesting more adequate representation but failing to make headway with the New South Wales Council, the Port Phillip residents decided to petition the Queen and on April 1st. 1846, Gipps submitted their petition to the Executive Council for their advice and recommendation. The Council agreed to recommend separation and passed two resolutions pointing out that the fact that Port Phillip had never been a place for the transportation of convicts had produced a feeling of distinctness in the colony and that the district was sufficiently wealthy and important to warrant its separation and that its revenue was adequate for the maintenance of a separate government. The Bishop of Australia and the Colonial Treasurer objected on the following grounds.

1. The Port Phillip District had suffered no injury, political, judicial or financial, from its connection with New South Wales.
2. The inconveniences arising from distance from the seat of government, the constitution of the Courts of Justice and the disposal of revenue could be removed without separation.
3. The difficulties of representation were not peculiar to Port Phillip but were shared by all remote districts.
4. While the residents demanded representative government, the Superintendent declared that there would not be sufficient

suitable persons to constitute a legislature.

5. The granting of separation simply at the request of the residents would form a precedent.

6. The multiplication of Colonial Legislatures founded on democratical principles would be liable to lessen regard and reverence for the monarchy and security for good government afforded by the final control of Queen and Parliament over all colonial measures.

Gipps forwarded the petition on April 29th with an outline of a
1) scheme for a suitable form of government. He proposed that a

system of local government should be established before any legislative body was called together; that the first members of the Legislative Council should be elected by local municipalities

or District Councils and that when the population and prosperity warranted it, Port Phillip should have a constitution similar to that granted to New South Wales in 1842.

On July 31st. 1847, Grey replied with an outline of the
2) proposed legislation. He had made up his mind that separation was necessary but was proceeding cautiously with the idea of ascertaining colonial opinion on the revision of the government of all the colonies. The reception which this despatch met with in Australia is described later but it is interesting to read the following remark in the Port Phillip Gazette of January 3rd. 1848, as indicating the feeling existing between the two colonies: "We anticipate some of the Sydney papers will be coming out with a cart load of nonsense; running down Earl Grey's plan, but we will defend it from their senseless and ignorant declamation." The residents of Port Phillip, growing impatient at the delay in putting

1. Parliamentary Papers 1850. XXXVII. 1160. p. 66.
2. Parliamentary Papers 1847 - 8. XLII. 715. pp. 3-6.

Grey's proposals into effect and anxious to impress on the Home Government the worthlessness of the representation in the New South Wales Council, nominated Wellington, Palmerston, Brougham, Lord John Russell and Peel to represent them and Melbourne actually elected Grey, a proceeding which according to Latrobe, the Superintendent, showed how unfit the colonists were for representative government. In a memorial to Grey, the residents stated "Our seats during five years have been occupied by no fewer than 17 members.... Two elected resident members never sat at all and but one resident member ever sat out more than a single session." ¹⁾

Latrobe and Fitzroy both favoured government by a Governor, an Executive Council and a nominated Legislative Council. The New South Wales Legislative Council by a vote of 19 to 3 resolved that separation would be injurious or at least premature but Fitzroy's ²⁾ despatch of August 11th. 1848, stated that the resolution in favour of separation was carried without observation, though this statement does not agree with official records. In 1849 came the report of the Committee on Trade and Plantations, which is dealt with later, and the same year the New South Wales Council resolved that all revenues raised in Port Phillip after January 1st, 1850, should be expended for the benefit of that district. In 1850, the Act passed the British Parliament and the first Legislative Council of Victoria, consisting of 30 members, met on November 11th, 1851.

In New South Wales we find that the blended house provided by the Act of 1842, seemed suitable to the conditions existing in a period of transition from a penal to a free colony but when grievances began to develop which the Legislative Council could

1. Parl. Pap. 1849. XXXV. 1074. pp. 19 - 26.
 2. Parl. Pap. 1850. XXXVII. 1160. p. 23.

not remedy, a demand arose for granting that body greater powers. The bitterness of the struggle was increased by the unpopularity of the Governor, Sir George Gipps.

When the 1844 Estimates were under discussion, the colony was suffering from a financial depression and the Governor in a message to the Council stated that he expected a deficit of from £40,000 to £60,000 and urged economy. At the same time, he asked for a grant of £30,000 for the administration of justice instead of the £20,000 provided in Schedule A of the Act of 1842. The Council attempted to reduce the salaries of officials which were considered to be guaranteed under this Schedule and when the Governor objected, the Council resolved that if it were called on to vote more than the Schedule provided for, it should have the power to fix the amount appropriated to every detail, except what was specifically provided for in the Schedules. The Civil List thus became a bone of contention very soon after the Act came into force and some notices of motion in December, 1843, though they were never submitted to the Council, served to show the growth of feeling. They stated that the right assumed by the British Government to nominate one-third of the Legislature was contrary to the principles of the British Constitution; that only the people's representatives had the right to vote taxes and that the British Government had no right to fix a Civil List of £81,000 without the consent of the people. The "Monster Grievance" was the land question and when, in April, 1844, the Governor issued regulations without consulting the Council, he called forth a resolution which stated "That in the opinion of this Council the depasturing regulations published by His Excellency the Governor on April 2nd. are impracticable in principle, oppressive in detail, and ought to be recalled." This amounted to a vote of censure and the Home Government supported

the Governor. A select committee of the Legislative Council recommended in August, 1844,

1. That the Act, 5 & 6 Victoria, C. 36 which regulated the sale of Crown lands and fixed the minimum price of all Crown lands at £1 an acre, should be repealed at once.
2. That the twenty-ninth section of the Constitution Act, 5 & 6 Victoria, c. 76, which excluded the Council from interfering with the sale or other appropriation of lands belonging to the Crown in New South Wales, or with revenues derived from them, should be rescinded.
3. That the management of Crown lands and the revenue arising from them should be placed at the disposal of the Governor and the Legislative Council.

Stanley's reply (August 15th. 1845) to petitions accompanying these recommendations was deemed unsatisfactory and spurred the colonists to further efforts.

On the motion of Wentworth (June 21st, 1844) a Select Committee of the Legislative Council was appointed and inquired into such matters as the Civil List, District Councils, the Police, Gaols and Judicial Expenses, Responsible Government and Impeachments, the lack of legal remedy against the Crown and the tenure of office of Judges. Their report, dated December 6th, 1844, condemned the proposal for District Councils almost entirely and opposed the Civil List as a system of taxation without representation. Regarding the expenditure on police, gaols and the judiciary, it was held that by an agreement with Governor Bourke, in 1835, the Council had undertaken to meet the expenses of the gaols and police and the Crown returned the surplus of the casual and land revenues after¹⁾ defraying the expenses of immigration. This agreement had been

confirmed by the Lords of the Treasury but was now disallowed by the British Government and Governor Gipps. New South Wales should have control of all the revenues of the Crown in the colony and was also entitled to compensation for the expenses incurred through the landing of convicts in the colony. As for the total absence of all responsible government, the report stated, "Nothing can more clearly evince the evil tendencies of that entire separation of the Legislative and Executive powers which exists there at present than the perfect indifference, if not contempt, with which the most important decisions and resolutions of your Honourable House have been treated by the head of the government during the course of this Session. Notwithstanding the insignificant minorities in which the confidential servants and advisers (if any such there be) of the government have been left on every important subject which has engaged the attention of the House during the present Session, the condemned policy and measures of the executive are still persevered in, as if they met the fullest concurrence and support of overwhelming majorities." It was recommended that the government should be conducted on the same principle of responsibility, as to legislative control, as had been conceded to the Canadas and that a tribunal for impeachment should be established by law. The final recommendations were that persons having claims against the government should be enabled to sue the Colonial Treasurer or other public officer as a nominal defendant and that the same conditions of tenure of office and security of salary for judges should exist as were customary in England.¹⁾

Stanley rejected all these recommendations except that concerning the judges. As for Responsible Government, its supporters held that it would solve all the grievances of the colonists but its opponents considered it would lead to independence.

Collisions between the Government and the Council continued throughout 1844. A bill to reduce the Governor's salary was disallowed by the Crown; the Governor's bill for the regulation of District Councils was defeated, as were two bills for the administration of justice. On August 8th, Wentworth moved that the consideration of the Estimates be postponed "until so much of the Territorial and Casual Revenues of the Crown as is not appropriated by 5 & 6 Victoria, C. 36 (Crown Land Sales Act) be placed at the disposal of the Council" according to the agreement with Governor Bourke. Its defeat was probably due to a desire to await the report of the Land Grievances Committee.

On August 26th, 1845, what amounted to a vote of censure was passed on the Executive for appropriating more than the sum voted for a particular purpose and on June 3rd, 1846, a bill of the Governor was defeated on the grounds that it was based on the right claimed by the Crown over waste lands. The Speaker of the Legislative Council, writing to Scott, the Parliamentary Agent, said, "These repeated collisions between the Executive and the Legislative authorities must afford an unanswerable reason for the necessity of Responsible Government."

The prolonged controversy over the appointment and payment of the Parliamentary Agent, the Hon. Francis Scott, M.P. for Roxburghshire, maintained the feeling. Stanley disallowed the appointment (September 1st. 1845) for several reasons. It had been made by a mere resolution of the Council and not by an ordinance

assented to by the Governor and transmitted to the Queen for confirmation or disallowance; the Agent would be acting in Parliament as the representative of a local interest at the expense of other interests of the British Empire; of the Select Standing Committee appointed to correspond with^{the} Agent, only one of the 14 members was chosen from the Crown nominees whereas the ratio on the Committee should have been the same as in the Council and, finally, giving authority to the Committee to sit and act during prorogation and pending dissolution of the House would deprive the Crown of its prerogative of prorogation and dissolution for many practical purposes.

Grey succeeded Stanley and disallowed a bill passed on October 9th, 1846, because of the ratio of nominees to elected members on the Committee (July 31st, 1847) but later became more conciliatory. He gave way on the question of the composition of the Committee and the Legislative Council no longer insisted that the Committee should transact business when the House was not in session. The acceptance of the Colonial Agent's Bill of July 24th, 1849, brought the five years' dispute to an end.

Yet another question agitated the people of New South Wales during the years between 1842 and 1850 and that was transportation. Since 1840 transportation to New South Wales had been discontinued. In 1842, Stanley introduced a new system by which convicts transported to Tasmania were, after a time, granted conditional pardons and allowed to seek employment with the free settlers, but the financial depression hindered the working of this scheme. There were so many convicts with conditional pardons unemployed that transportation to Tasmania ceased for a time and the English prisons became crowded. In 1846, Gladstone asked the government of New South Wales to accept carefully selected convicts. The

squatters were in favour because it meant cheap labour but the Legislative Council did not wish to see transportation revived. However, when Grey promised an equal number of free immigrants, it agreed (April, 1848). Grey sent the convicts but as it was near the end of the session, he had been unable to arrange to send the free immigrants and promised to do so later. This aroused such opposition, particularly from the working men of Melbourne and Sydney who feared the reduction of wages, that in June, 1849, the Legislative Council, largely through the advocacy of Cowper, Lowe and Parkes, asked for the cessation of the system and the British Government agreed.

Retracing our steps, we find by Gipps' despatch of April 29th, 1846, that he and his Council were in favour of the separation of Port Phillip. Grey's reply of July 31st, 1847, which was sent to Fitzroy, Gipps' successor, foreshadowed the changes which he proposed to make in the government of the various colonies. He lamented the fact that the clauses in the 1842 Act for the establishment of District Councils had not been put into effect. By this means he thought the more remote districts would have been given a greater share in the government of the colony but the Legislative Council had absorbed all the powers of the colonial state. He proposed that the new Act should provide for the establishment of two houses of legislature and that the District Councils should become realities by managing local affairs and by bearing "to the House of Assembly the relation of constituents and representatives."¹⁾ In this way, he hoped to prevent the undue centralization of power by balancing and keeping in check the power of the Legislative Council. Such a Scheme was not new.



It was in the Buller-Macarthur constitution of 1838, in the New Zealand constitution (9 & 10 Victoria, C. 103) and had been suggested by Gipps for Port Phillip in 1846.

Grey also hinted at a plan for enabling the various legislatures of the Australian colonies to co-operate with each other in the enactment of such laws as might be necessary for regulating their common interests such as the imposition of import and export duties, the conveyance of letters and the formation of roads and railways between colonies. Representative government would be extended to Tasmania and South Australia and to Western Australia when that colony was able to defray the expenses of its own government. In conclusion, he asked for local opinion on the proposed changes and hoped that "the colonial governments of Australia can be settled on a basis on which the colonists may ... themselves erect institutions worthy of the empire."¹⁾

In the same despatch, commenting on the disallowance of a New South Wales Act making the Colonial Secretary and other principal officials ineligible for election to the Legislative Council, Grey said that this was "in direct conflict with the maxims and habits of the British Constitution which permit the same persons to serve the Crown in the higher offices of the Executive Government and to represent the people in the Legislature." This statement seemed to point to the gradual acquisition of responsible government. The proposal for some form of federation among the Australian colonies would seem to have been suggested by Edward Deas Thomson, who was educated in Edinburgh and whom Huskisson, in 1827, appointed clerk to the Council in New South Wales. In

1. Parl. Pap. 1847-8. XLII. 715. p. 6.

1837, Bourke made him Colonial Secretary, an office which he held until the establishment of responsible government. Deas Thomson had considerable influence over Fitzroy whose despatch of September 29th, 1846, drew attention to the advantage of having some unified authority in Australia for dealing with tariff legislation.

Tasmania had ceased to give intercolonial preference partly owing to Imperial dislike of special intercolonial arrangements, partly owing to Tasmanian interests, and Fitzroy suggested to Gladstone the establishment of "some superior functionary to whom all measures adopted by the local legislatures affecting the general interests of the Mother Country, the Australian colonies or their inter-colonial trade, should be submitted." Such a scheme would tend to prevent the colonies from drifting apart by the adoption of divergent policies.

Copies of this despatch were sent to the Lieutenant-Governors of South Australia, Van Diemen's Land and Western Australia. The first two were informed that a measure would be introduced to provide for the addition of elective members to the Legislative Councils of those colonies in the proportion of two elective members to one nominated. By the same measure, the Legislative Council of Western Australia would be empowered to pass an Ordinance adding elective members in the same proportion, whenever the inhabitants should, by petition, declare themselves favourable to the change and ready to undertake the cost of the civil government of the colony then met by annual grants of Parliament.¹⁾

Fitzroy gave publicity to Grey's despatch with the result that public opinion expressed itself as opposed to the proposed

1. Parl. Pap. 1847 - 8. XLII. 715. pp. 46 - 47.

constitutional changes. The feeling in New South Wales was, at first, one of suspicion. The constitution was working tolerably well yet concessions were being offered without being asked for. A public meeting was held in Sydney on January 19th, 1848,¹⁾ at which Lowe and Wentworth spoke freely. The scheme for the election of members of parliament by the District Councils was strongly attacked as being un-British while Grey's criticism of the Legislative Council was particularly resented. District Councils would probably have proved impracticable owing to the scattered population and to the fact that the settlers were too busy developing the country to have time for local government. The Civil List of over £80,000 over which the Council had no control also came in for strong criticism. Lowe summed up the proposals as a "damning proof of Colonial Office tyranny".

As a result of the meeting, a petition was drawn up and forwarded to the British Government in February, 1848.²⁾ The chief resolutions were:

1. That the proposal to perpetuate the system of district councils and to place them with respect to the legislative Assembly in the relation of constituent to representative "has filled us with the utmost apprehension and dismay."
2. That in consequence of the scattered population, the establishment of municipalities similar in principle to the district councils attempted by 5 & 6 Victoria, C. 76, would be so repugnant to the wishes, and so adverse to the interests, of the community, that it could never be brought into effective operation.
3. That the proposed change in the constitution would deprive the people of the elective franchise, their "inalienable right as

1. Parl. Pap. 1847-8. XLII. 715. pp. 30-44. Sydney Morning Herald. Jan. 21st. 1848.
 2. Ibid. p. 29.

British subjects."

4. That by delegating their right to elect representatives, they would be deprived of constitutional control over the legislature.
5. That they should have a form of government founded as nearly as possible on the principles of the British constitution and that the colony should not be subjected to experiment in legislation.
6. That the separation of Port Phillip did not justify the proposed changes in the constitution.
7. That no important alteration in the constitution should be made without the consent of those affected.

Grey's policy seemed to have developed in New South Wales a sudden affection for the features of the constitution which he proposed to change and to have increased antipathy for those that were to be retained. It will be noticed that the federal clauses were not mentioned. The Sydney Morning Herald considered the proposal "comparatively harmless and uninteresting" but when Grey's proposals were discussed in the Legislative Council in April, Wentworth referred to it as the only amendment worth considering. His resolution in favour of a congress from the various colonial legislatures with power to enact laws on intercolonial questions was passed by the Legislative Council sitting in committee but as the committee did not sit again or report its resolutions to the House, this resolution was not placed on record.

¹⁾
In his despatch of August 11th, 1848, Fitzroy embodied the resolutions which passed the committee of the whole House on May 10th, but which were not reported to the House itself.

1. That the separation of Port Phillip from New South Wales could be effected without any fundamental change in the constitution.
2. That the Council could not agree to any intercolonial congress

in which New South Wales was not represented in proportion to her wealth and population.

3. That the Council favoured the separation of the nominated members of the Legislature from those who were elected, i.e. the establishment of two houses of parliament.

4. That, if this change were made, the Representative Assembly should have control of the territorial revenue and Schedules A, B and C of the 1842 Act.

The second resolution was passed without opposition but the third was passed by a majority of only one, the chief objection to it being that an upper house would come between the executive and the assembly and make the former more independent because less subject to the control of the assembly. In his despatch of July 31st. 1848,¹⁾ Grey acknowledged the information Fitzroy had sent him with regard to the proposed changes. He regretted the opposition to his scheme of District Councils but had no wish to impose on the inhabitants any form of government which they considered unsuitable or objectionable. As to the division of the legislature into Assembly and Council, he proposed to give power to the local legislatures to effect that change when they thought it desirable. He then proceeded to outline the bill which the Government intended to introduce. There would be no changes in the composition or authority of the Legislative Council of New South Wales except those that necessarily followed from the separation of Port Phillip. A legislature would be set up for Port Phillip similar to that of New South Wales and representative institutions granted to Tasmania and South Australia by adding elected members to the legislatures already in existence, the proportion of elected to nominated members being two to one.

1. Parl. Pap. 1847 - 8. XLII. 715. pp. 44-46.

The legislatures of the Australian colonies would be empowered to amend their own constitutions subject to confirmation by the Queen in Council. Grey also expressed the hope that some means would be found of ensuring a uniform commercial policy in the Australian colonies.

In January, 1849, Grey placed before the Committee of the Privy Council for Trade and Plantations the correspondence which had passed between the Colonial Office and the Australian governors on the subject of the constitutional changes and asked it to report on the subject. This procedure was rather unusual at that time but Grey who was somewhat of a doctrinaire on questions of colonisation and self-government was anxious to have a permanent commission of experts with a practical knowledge of the colonies whom the Colonial Office might consult on special occasions. On this occasion the committee consisted of Grey himself, Labouchere, President of the Board of Trade, and three lawyers, Lord Campbell, Chancellor of the Duchy of Lancaster, Sir Edward Ryan, a former Chief Justice of Bengal and Sir James Stephen, a former Under-Secretary of State for the Colonies.

Their report stated that it was the usual custom in British colonies to establish a local legislature consisting of a Governor appointed by the Sovereign, a Council nominated by the Sovereign, and an Assembly elected by the people. This had not been done in Australia. A Governor and a Council appointed by the Crown had been introduced by the authority of Parliament and it was intended to follow the earlier practice as soon as circumstances permitted. This had been done in New South Wales except that the Council and Assembly were combined in one House. It was too soon to confer this constitution on Western Australia because that colony was unable to fulfil the conditions on which alone such a grant

should be made, namely the ability to bear the expense of civil government by means of local revenue under the direction and control of representatives. When Western Australia could comply with this condition, representative government would be granted.

Tasmania and South Australia were considered ready for representative legislatures as they were able and willing to provide by local resources for the public expenditure incurred for local and colonial purposes. "The introduction of this constitutional principle into every dependency of the British Crown is a general rule sanctioned by a common and clear consent. The exception to that rule arises only when it can be shown that observance of it would induce evils still more considerable than those which it would obviate and correct." Giving effect to this principle would mean the division of the country into more colonies as the population increased so that the evils of centralization would be avoided. The necessity for the separation of the Port Phillip District from New South Wales was agreed upon and the boundary between the two colonies was fixed. In New South Wales and the new colony of Victoria, legislatures should be established in which "the representatives of the people should exercise their constitutional authority and influence." In New South Wales, Victoria, South Australia and Tasmania, the Committee advised the ancient constitutional usage of a Governor, a Council and an Assembly, "for we think it desirable that the political institutions of the British Colonies should thus be brought into the nearest possible analogy to the Constitution of the United Kingdom."

The proposed Act should provide for one house of legislature, one-third of the members being nominated by the Crown and the

remaining two-thirds elected by the people. This was the system established in New South Wales in 1842 and "custom appears to have attached the colonists to it", so that it would be unwise and unjustifiable to force a change upon them. The legislatures would have the power of amending their own constitutions by resolving these single houses of legislature into two houses. Power would be given to make any other amendments in their own constitutions which time and experience might show to be requisite, provided the assent of the Queen, Lords and Commons of the United Kingdom were obtained.

The Committee thought it inadvisable to repeal the legislation with regard to District Councils in New South Wales. "It would be regarded in these colonies as a significant intimation of the judgment of Parliament that local municipal corporations might safely be dispensed with in their system of government. We

think it would be highly inexpedient to afford any countenance to such an opinion." Efficient municipal bodies, they thought, were necessary to public welfare. They were a security against undue centralization; they kept public spirit alive, gave practice in the conduct of public affairs and prevented one district from having a disproportionate amount spent on it compared with others. It was, therefore, proposed that the Act of 1842 should be amended to permit the establishment of District Councils on the petition of the inhabitants of the districts concerned. The governor would be empowered to grant charters of incorporation and the Councils would have power to levy rates, while part of the land revenue that was not used for immigration should be at their disposal for local works. This amendment would apply to all the colonies.

It was recommended that a sum of £30,000 (later increased to

£33,560 in Schedule I) should be voted annually for the support of public worship. This amount was to be divided between the Churches of England, Scotland and Rome and the Wesleyans in proportion to the number of their adherents. The amount paid to the Church of England was to remain constant and the payments to the other denominations were to be in proportion. The Committee found that the complaints with regard to the New South Wales Civil List were not unreasonable. It was not consistent with the principles of Representative Government that a large part of the public expenditure should lie outside the control of the Legislature but serious evils might arise from leaving the whole of the public establishments to be provided for by an annual vote. Renumeration of public servants might be considered with reference to personal feelings rather than with regard to the interests of the community. It was, therefore, recommended that Parliament should, in the first instance, charge upon the revenues of the colonies an amount sufficient for those services which it would be inexpedient to leave to be provided for by an annual vote, but leaving power to alter this appropriation by laws passed in the usual form. The salaries of the principal officers should not be changed without the Queen's direct concurrence.

It was proposed to secure a uniform tariff throughout the colonies by adopting the existing tariff of New South Wales and the following scheme was proposed for enabling changes to be made when necessary. One of the Governors was to hold a commission as Governor-General of Australia and be authorized to convene a General Assembly when and where he thought fit, the first meeting to take place at the request of two or more of the Australian Legislatures. This Assembly should consist of a single house, the House of Delegates, from 20 to 30 in number, elected by the

legislatures of the colonies in proportion to their population. The legislative authority of the General Assembly should be limited to the following ten topics -

1. Imposition of import and export duties.
2. Conveyance of letters.
3. Formation of roads, canals and railways traversing two or more colonies.
4. Erection and maintenance of beacons and lighthouses.
5. Imposition of dues on shipping.
6. Establishment of a General Supreme Court to be a court of original jurisdiction or a court of appeal for any of the inferior courts of the colonies.
7. Determination of the extent of the jurisdiction and the forms and manner of proceedings of such Supreme Court.
8. Regulation of weights and measures.
9. Enactment of laws affecting all the colonies represented in the General Assembly on any subject not specifically mentioned in the preceding list at the request of the legislatures of those colonies.
10. Appropriation to any of the preceding objects of such sums as may be necessary by an equal percentage from the revenue received in all the Australian colonies.

The basis of representation was to be two members from each colony and an additional member for every 15,000 of the population. The composition would have been as follows.

	Population	Number of Members.
New South Wales	155,000	12
Victoria	33,000	4
Tasmania	46,000	5
South Australia	31,000	4
		<hr/> 25
		1)

Copies of the report were sent to the Governors of all the Australian colonies. The idea of federal union met with little support. In South Australia, the Legislative Council condemned the idea (December 12th., 1849) and at a public meeting in Adelaide (December 21st, 1849), the proposal was stated to be in principle a form of

Federal Union, in a British sense, unconstitutional and a danger to colonial independence.²⁾ Sir William Denison, the Governor of

Tasmania, wrote that he could see few advantages for Tasmania in such a union and many difficulties and inconveniences (December 28th, 1849).³⁾ In England, the Hon. Francis Scott, Parliamentary

Agent for New South Wales, opposed the federal scheme as likely to cause embarrassment and disunion. Robert Lowe, a former member of the New South Wales legislature, speaking before the Colonial Reform Society on June 1st, 1850, termed it impracticable and an absurdity. It would be expensive as there would be two governments to pay for instead of one and it would represent nobody.

There was no community of feeling among the colonies and they had no foreign policy. Uniformity of legislation for all the colonies

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1. Parl. Pap. 1849. XXXV. 1074. pp. 33 - 47.
 2. Parl. Pap. 1850. XXXVII. 1182. pp. 14-15 and 1183.
pp. 19 - 20.
 3. Ibid. 1182. pp. 3 - 8.

might be positively harmful as, for example, if a uniform land policy were insisted on. Actual experience has proved the truth of this last criticism.

The remainder of the report was received favourably on the whole though in New South Wales it was felt that the legislature should be allowed to fix the Civil List, control Crown lands and introduce ministerial responsibility, changes for which the colonists had petitioned in 1844. Lowe, in particular, strongly advocated responsible government as the following notice of motion of August 3rd, 1849, will show.

1. That no form of constitution will be acceptable, permanent or beneficial which does not embody the following requisites:

(a) An explicit recognition of the rights of the colonists of New South Wales to have their Government administered by persons responsible to their representatives.

(b) A Government (with the exception of a Governor to be paid from the Imperial Treasury) removable by order of the Colonial Legislature, and invested with all local patronage.

(c) An elective Assembly in which no person nominated by the Crown shall have a seat.

(d) The placing of the sum of £31,600 contained in the Schedules A, B and C appended to the Act 5 & 6 Victoria, c. 76, together with the expenses of the Customs at the disposal of the Assembly.

(e) The repeal of the Act 5 & 6 Victoria, c. 76, and the transfer to the local Government and Legislature of the management of the waste lands of the colony and the revenue derived from them.

2. That in consideration of the above concessions this colony is willing to pay such military forces as may be necessary for its protection in times of peace, and to grant a reasonable Civil List during the life of Her Majesty.

Lowe withdrew this motion in order not to embarrass the

British Government which at that time was introducing the
Australian Colonies Government Bill.¹⁾

On June 4th. 1849, Hawes, Under Secretary of State for the Colonies, asked leave to introduce into the Commons the Australian Colonies Government Bill which was based on the report of the Committee for Trade and Plantations modified as a result of the expressions of opinion in the colonies.²⁾ The chief objects of the Bill were:

1. To make the Port Phillip District a colony separate from New South Wales.
2. To confer constitutions similar to that of New South Wales on Victoria, South Australia and Tasmania and on Western Australia when that colony was able to bear the necessary expense.
3. To abolish the establishment and functions of the District Councils as provided for by the Act of 1842.
4. To give the Australian legislatures power to amend their own constitutions subject to the approval of the Crown.
5. To create a Federal Union for certain purposes with a Governor-General and a General Assembly elected by the Legislatures of the Colonies.
6. To give this General Assembly certain functions and powers defined in the Bill; to amend tariffs; to establish a Supreme Court; to regulate weights and measures and to legislate concerning roads, canals, railways, beacons, lighthouses and other matters affecting the common interests of the colonies.

This bill came before the British Parliament in June, 1849, but it was not until July 30th, 1850, that the Act was passed. In the meantime it came in for considerable discussion and criticism

1. Hansard. 1850. 103. p. 1005.
2. Hansard. 1849. 105. p. 1126.

both in Parliament and out of it. Dr. Lang, the veteran Australian politician, in a letter to Hawes (June 17th, 1849), condemned the proposal to continue to have nominated members in a single house and to establish blended houses in the other colonies, chiefly because nominees did not represent anybody and therefore had no right to vote away the people's money. Nominees, said Robert Lowe, were mere tools of the Governor. If a nominee voted for the Government, the representative members called him a slave; if he did not, the officials regarded him as a traitor. He also attacked the system of taxation of the colonists without their consent by means of the Civil List and the control of waste lands by the Crown.

In Parliament, great interest was shown in the bill because of the principles it involved and among those who took part in the debates were Stanley, Lord John Russell, Grey, Molesworth, Gladstone and Disraeli. The question as to whether the legislatures should consist of one or two chambers caused a postponement. The report stated that New South Wales favoured a single house but the Governors of New South Wales, South Australia and Tasmania all favoured two as did Scott, the New South Wales Agent. Grey was content to leave the question to be decided by the legislatures themselves. Finally, it was decided to leave New South Wales with its existing constitution, to establish similar ones in the other colonies and to give the colonial legislatures power to propose amendments to their constitutions.

The proposal for a Federal Union met with opposition. In order to push the federal clauses, which were opposed by Scott amongst others, Grey offered to insert a clause giving the federal legislature power to amend the Land Sales Act. Members disapproved of giving the Assembly power to deal with waste lands and Stanley

objected to it as something new and untried which was bound to be unsatisfactory. In addition, he strongly opposed giving the General Assembly power to deal with questions which were of Imperial concern. The clause was therefore omitted.

Jackson, the Agent of Tasmania, said that while Parliament was justified in trying to prevent the colonies from injuring each other by retaliatory duties, the enactment of a uniform tariff was contrary to the principles of self government. This clause was dropped to facilitate the passage of the bill.

The bill was dropped for the time being in order to obtain further expressions of opinions from Australia. New South Wales was not very interested except in the control of land revenue though an anti-transportation meeting put forward a request for responsible government. Macarthur and other conservatives were in favour of two houses as a safe-guard against rash legislation and also sought local control of the land revenue and the appointment of colonists to official positions under the government.

In Tasmania, the postponement was regarded as a breach of faith. The high Civil List was condemned and the General Assembly was not favoured because it was felt that the influence of New South Wales would unduly outweigh that of the other colonies. Although a public meeting in Hobart approved of the proposed system for imposing a tariff, Governor Denison opposed it because he saw that economic differences which existed between the colonies would have to be met by different laws. A tariff which suited pastoral New South Wales would not suit agricultural Tasmania. Imperial control of Crown lands should be retained and he favoured a second chamber, elected wholly or in part in order to check the "essentially democratic spirit" of the colonies.

A public meeting in Adelaide (December 21st, 1849) considered

the bill "a wise, liberal and comprehensive measure" and expressed its thanks to Grey, Hawes and Labouchere. Other resolutions opposed the establishment of an upper house consisting of members nominated for life which the Legislative Council favoured and maintained the right to regulate, by means of their representatives, the mode of raising and appropriating the colonial revenue, free from direction and control by Her Majesty's Treasury, or by the Commissioners of Customs. They considered that the Local Government should have the power of appointing all officers of government and that salaries should be fixed by the Colonial Legislature. The Legislative Council put forward the theory that Imperial control in the colonies should be limited to Imperial subjects which were to be defined by parliament. The General Assembly was opposed because South Australia had nothing in common with the other colonies and because New South Wales would dominate such a body. As was to be expected on account of its origin, South Australia¹⁾ opposed federal control of lands.

A long debate on colonial policy took place in the Commons on February 8th, 1850, and concluded with a resolution to the effect that provision be made for the better government of the Australian Colonies.²⁾

The bill as introduced again on February 11th, 1850, was not very different from the original one.³⁾ It proposed that such colonies as wanted it, might petition for the establishment of a General Assembly and, if it were once established, other colonies might petition for representation in it. The question of the

1. Parl. Pap. 1850. XXXVII. 1183. p. 19.

2. Hansard. 1850 108. pp. 535-611.

3. Ibid. p. 634. Second Reading. Feb. 18th. Ibid. pp. 976-1020.

tariff was left to the various colonial legislatures but no discriminating duties were to be imposed.

The Times (February 9th, 1850) expressed approval of the bill and with regard to the refusal of responsible government said that such a concession "would throw all Australia into the hands of political agitators and rob it of that tranquillity so needful to infant colonies." Other opinions are interesting as showing the attitude of public men in England to the colonies. Most agreed that Australia should be given the same institutions as Great Britain and for that reason Scott condemned the system of blended houses as being French or American rather than British. Another critic said that nominees would have a bad influence in normal times and none at all in a crisis. The connection between the Mother Country and the colonies would be strengthened by giving them the same laws, habits and institutions. Gladstone said that the colonies had no option but to work with the materials at hand. Democratic influences could not be checked by interference and control from home. He looked forward to the time when the colonies would be able to manage their own affairs, and it was essential that, when "these new States came to be launched into the world," they should have the elements of good constitutions. Molesworth advocated an elected upper house as a check on democracy and said that colonial institutions should permit any conflict between conservative^{and}/innovating tendencies to be fought out in the bosom of those institutions.

As The Times pointed out (April 20th., 1850), the Colonial Reformers wanted to give the colonies a cut and dried scheme for permanent adoption whereas the Colonial Office was willing to leave the question in the hand of the colonists. Fortunately, the latter prevailed. With regard to the General Assembly, Molesworth argued that it would begin encroaching on Imperial

power and lead to separation. The monarchy was "the true federative Assembly" and all questions could be settled by mutual arrangement between the colonies.

Stanley said the federal idea was novel, unnecessary and mischievous. If the colonists wanted any form of combination, they should suggest it themselves. Grey replied that it was not novel as Benjamin Franklin had suggested a similar scheme for the American colonies in 1754. It was a beginning which could grow with the needs of the colonies and bind them closer to the Crown. It was better to provide for the solution of difficulties before they arose. Grey finally gave in on this question for the clauses passed the House of Lords by a majority of only one vote and he withdrew them rather than endanger the passage of the whole bill.

The Colonial Reformers wished to make provision for the limitation of the veto of the Crown in local matters and to make a hard and fast distinction between local and Imperial matters but Grey advised that such matters should be left to be dealt with when they arose and he succeeded in carrying his point. However, the matter was to come forward again within a few years.

The bill was considered in Committee in the House of Commons on March 22nd.¹⁾ having been postponed a month in order to allow for the publication of Australian opinion on the question of two houses. This stage was spread over several sittings and concluded on April 25th.²⁾ On May 6th, Molesworth moved that the Bill should be recommitted for the purpose of omitting all

1. Hansard. 1850. 109. pp. 1258-1343.
 2. Hansard. 1850. 110. pp. 554-622, 628-666, 797-806.

clauses which empowered the Colonial Office to disallow colonial acts, to cause colonial bills to be reserved, and to instruct colonial governors as to their conduct in the local affairs of these colonies; and for the purpose of adding clauses¹⁾ enumerating and defining Imperial and colonial powers. The²⁾ motion was lost by a large majority.

Gladstone's proposal for adding a clause regarding the rights³⁾ of the Church of England in Australia was also negatived. At the third reading (May 13th.), Gladstone wished to delay the passage of the Bill because he thought it unsuitable to Australian conditions and not what the colonists wanted. He was supported by Molesworth, Adderley, Roebuck and others but his proposal was⁴⁾ lost. The first reading in the House of Lords was taken next day and, on May 31st., Grey spoke to a House of fewer than twenty⁵⁾ members on the occasion of the second reading. After three⁶⁾ days' discussion in committee (June 10th., 11th. and 14th.), it⁷⁾ passed its third reading on July 5th., 1850, the amendments were agreed to by the House of Commons on August 1st., and on August 5th.,⁸⁾ it received the Royal assent. The following are the chief provisions of this act (13 and 14 Victoria, C. 59):

1. The Port Phillip District was to be erected into a separate colony under the name of Victoria and the boundaries were fixed as a straight line from Cape Howe to the nearest source of the River Murray and thence by the river to the eastern boundary of South Australia. This district would no longer send representatives to

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1. Hansard. 1850. 110. p. 1164.
 2. Ibid. p. 1193.
 3. Ibid. pp. 1195-1233.
 4. Ibid. pp. 1384-1423.
 5. Hansard. 1850. 111. pp. 497-528.
 6. Ibid. pp. 956-979, 1030-1067, 1215-1230.
 7. Ibid. pp. 972-979.
 8. Hansard. 1850. 113. pp. 615-634 and p. 762.

the Legislative Council of New South Wales.

2. The number of members, after the separation was effected, in the Legislative Council of New South Wales and in that of Victoria was to be determined by the Governor and Council of New South Wales, provided that one third of the members were nominated and two thirds elected.
3. The following were to be entitled to vote - every man over the age of 21, natural born or naturalized, having a freehold estate of the clear value of £100, or being a householder occupying a dwelling house of clear annual value of £10, or holding a pastoral licence or having a leasehold estate of the value of £10 per annum, provided that no one undergoing sentence for any offence should be entitled to vote.
4. In South Australia and Tasmania, Legislative Councils were to be established consisting of not more than 24 members, one third of whom were to be nominated and the remaining two-thirds elected.
5. On a petition from not less than a third of the householders of Western Australia, a similar Legislative Council might be set up in that colony, provided the revenues of the colony were sufficient to meet the expenses of the civil establishment.
6. The Governors and Councils of the respective colonies were to have power to make laws for the control of the whole of the revenue from taxes, duties, rates and imposts levied in the colonies provided that no such law was repugnant to the law of England nor interfered with the sale or appropriation of Crown lands.
7. It was not lawful for any Council to pass any bill appropriating to the public service any sums of money unless the Governor first recommended the Council to make provision for the

specific public service towards which the money was to be appropriated.

8. Each colony was to provide a Civil List - New South Wales,

£73,500; Victoria, £20,000; Tasmania, £41,900; South Australia, £13,000;- for the Governor, Judges, Administration of Justice, Government Public Officers and (except in South Australia) Public Worship.

9. The Councils were empowered to alter any of the sums mentioned in the Schedules but any alteration in the salaries of the Governors or in the amounts appropriated to Public Worship must be reserved for Her Majesty's approval. Detailed accounts of expenditure were to be laid before the Legislative Council and there was to be no diminution of a judge's salary during his term of office.

10. Charters establishing District Councils granted under Section 41 of 5 & 6 Victoria, C. 76, might be revoked on petition from the inhabitants of such districts and the Governors might grant charters on petition.

11. The provisions of 5 & 6 Victoria, C.76, requiring that half the cost of the police establishment of New South Wales was to be met out of general revenue and the other half by assessment on the districts was amended by repealing the section providing for the meeting of half the expenses by the districts.

12. District Councils were empowered to levy tolls, rates and assessments for public works within the districts.

13. The Legislative Councils were empowered to impose customs duties provided no discrimination was made between different countries.

14. No duties were to be levied on supplies for Her Majesty's forces nor in contravention of treaties with foreign powers.

15. A Supreme Court was to be established in Victoria and the Legislative Councils were empowered to legislate for the better administration of justice.
16. The Legislative Councils were empowered to legislate regarding the election of members, the qualifications of electors and members, the establishment of two houses, provided that such bills were laid before both Houses of Parliament for at least thirty days before receiving Her Majesty's consent.
17. Section 34 of the Act provided for the erection of a colony out of the territory lying north of 30° of south latitude when the inhabitants should petition to that effect and Section 35 provided for the establishment in such colony of a Council consisting of nominated and elected members in the ratio of one to two.

After what must have seemed to the waiting colonists an interminable period of discussion, correspondence and postponement for the purpose of obtaining colonial opinion on proposed changes, the bill became law and was ready to be put into operation. The British Parliament had shown more interest in the bill than was usual and many well-known members had taken part in the debates. In early years, colonial measures were often brought before pathetically small houses but, perhaps through the efforts of men interested in colonial affairs and of the colonists themselves to gain more publicity for their needs, a change had taken place. The Home Government showed particular anxiety to learn the wishes of the colonists themselves with regard to the new constitutions and this contributed to the delay in passing the bill. But in spite of the fact that Grey's scheme for the establishment of District Councils was so widely condemned, he still maintained it and embodied it, somewhat modified, in the Act. No wonder

Molesworth called it "the favourite offspring of the present Secretary of State (i.e. Grey) which nothing will induce him to abandon."¹⁾ The events of the period emphasised the attachment of the colonists to British institutions and in nothing was it expressed more strongly than in their refusal to take part in Grey's experiment by which District Councils should form an electoral college. In spite of fears and warnings expressed by public men both in England and in Australia, the Australian democracy was in fundamentals quite conservative and though the years since the 50's have seen advanced legislation in details, the foundations of British constitutional practice have remained intact.

Grey had broad and far-sighted views but his lack of sympathy for and understanding of the colonists neutralised the influence he might have exerted, while his land and transportation policies roused positive antagonism. He saw the two greatest dangers threatening the progress of the several colonies and he made a statesman-like attempt to prevent them. The first was centralization and the second localism and intercolonial rivalry - dangers which were inevitable from the very nature of the colonies and which, flourishing strongly in the 19th Century, even yet are not extinct. Whether the General Assembly would have prevented or still further encouraged these growths, it is impossible to say nor is it to the discredit of the colonists that they opposed the federal idea. They had not Grey's distant prospect of Australian affairs any more than he had their close and intimate view. At the time the proposal was made, the country was too young - the oldest colony concerned had been founded only 60 years, and the youngest had only just entered its second decade - the population

1. Selected Speeches of Sir William Molesworth (Ed. Egerton) p. 323.

was scattered and the centres of population were hundreds of miles apart, so it is not to be wondered at that local interests were stronger than national. There was lacking, too, the incentive of the external dangers which roused our fears later in the century. Japan was not yet westernised and there was no United Germany seeking a place in the sun. When the Crimean War roused fears that a Russian fleet might bombard the ports and carry off the stocks of gold, there were many who advocated independence of Great Britain and the proclamation of neutrality. It would have been advantageous to have had a body to ensure in all the states a uniform policy in such matters as railway construction, defence and possibly tariffs but that uniform policies over a wide area have their disadvantages is shown by the troubles arising from the working of the Navigation Act and causing discontent in Tasmania and the desire for secession in Western Australia. A united Australia might have prevented the German annexation of part of New Guinea in 1884.

Events of the latter decades of the 19th Century made federation inevitable and the first move came from the Australians themselves when the need was felt but Grey's idea may have suggested and hastened that move although it is probable that he visualised only a rudimentary federation and had not the modern conception of a closely-knit group of states.

The colonists were still without the control of the waste lands and a Civil List had to be provided for in each colony but their control of finance was extended and in Section 32 of the Act, granting the power of amending the constitutions, lay hope for the future. In this connection Grey afterwards wrote, "But in maintaining unaltered the form of government actually existing in New South Wales, and extending it to the neighbouring

Colonies, we induced Parliament to invest the local legislatures with large powers of making (subject to certain conditions) whatever changes in their institutions or in their laws might from time to time be found necessary.

Hitherto the power of amending Colonial constitutions, which had been granted by Act of Parliament, had always been reserved by Parliament to itself. By the New South Wales Act of 1842, no power was given to the Legislative Council of altering any clauses in that Act, however inconvenient they might prove, or of making even the most minute variation in the amount of the large sums, which the schedules of that Act had made applicable to certain heads of service. This had led to no little embarrassment..... In our opinion it was improper that the power of the Colonists to adapt their institutions, to the changes in the circumstances which are taking place so rapidly, should be thus restricted.¹⁾

The last sentence would convey the impression that the Act of 1850 had granted much greater powers than was actually the case.

The Act was received with pleasure in Victoria, South Australia and Tasmania. Victoria had been granted its great wish for separation from New South Wales and, as one writer, in the excitement of the moment, said, was grateful for "even a tardy release from political oppression." The colonies regarded it as another step forward in their constitutional development but in Western Australia it was hardly noticed. In New South Wales, on the other hand, its reception was hostile. This colony had gained least because it had already been granted in 1842 some of the concessions which the other colonies were only just obtaining.

1. The Colonial Policy of the Administration of Lord John Russell. Vol. II. p. 94.

Egerton attributes this hostility to "chagrin at the loss of the rich district of Port Phillip", but the connection with Port Phillip had meant little to New South Wales apart from having six discontented representatives from that district in its Legislative Council, for its administration had been almost completely separate from that of New South Wales. In another work, Egerton writes, "It is curious that in their righteous zeal to obtain for the colonies responsible government, the colonial reformers overlooked the moral of the old history which surely was the danger of conferring power and then denying responsibility."¹⁾ The Act of 1850 had given the New South Wales legislature power without responsibility. Lord Blachford, formerly Frederic Rogers of the Colonial Office, in 1885 wrote in a similar strain. "Lord Grey was possessed with the idea that it was practicable to give representative institutions, and then to stop without giving responsible government - something like the English Constitution under Elizabeth and the Stuarts. He did not understand the vigorous independence of an Anglo-Saxon community, or the weakness of an executive, which represents a democracy. So events took their course and left his theories behind."²⁾ It is to those events that I now wish to turn.

II RESPONSIBLE GOVERNMENT.

(a) New South Wales.

Before beginning to consider the establishment of responsible government in the various Australian colonies, it is well to recall that in May, 1851, Edward Hargreaves discovered gold near

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1. Selected Speeches of Sir William Molesworth (ed. Egerton) p. XV.
 2. Letters of Lord Blachford (ed. G. Marindin). P. 297.

Bathurst in New South Wales and that the news of his discovery was quickly followed by discoveries in Victoria, notably at Ballarat in August and Bendigo in November. The results of these discoveries were many and of the utmost importance to all the colonies. Speaking of New South Wales, Wentworth said "The discovery had precipitated the colony into a nation." Their bearing on the constitutional development of the colonies will best be seen if I quote Professor Scott's words. "The gold discoveries of the fifties brought to the shores of this country an immense tide of immigration; and a large proportion of the immigrants were men whose minds had been influenced by the recent reform and revolutionary movements in Europe, or had actually participated in them. Gold drew English Chartists and Irish repealers, participants in the French, German, Belgian and Hungarian revolutionary upheavals of 1848, Polish and Spanish insurrectionists, Italian nationalists, a great and mixed crowd of political enthusiasts, dauntless champions of lost causes, visionary idealists and fervent exponents of utopian theories - drew them all as the moon draws the waters - and set them to scratch for shimmering fortunes upon the beds of the creeks of Bathurst, amongst the quartz veins of Ballarat, and the auriferous gravels of Bendigo. To a people thus augmented was entrusted the responsibility of working systems of government in accordance with popular wishes."¹⁾

Dr. Lang said that the Australian colonies had grown from childhood to maturity in a flash and in a few months had lived through the changes of fifty years. It is essential, then,

1. A Short History of Australia. p. 203.

while considering the events of the fifties, to bear in mind the changes that were taking place in the colonies for they were all affected whether gold was discovered in their territories or not.

I have already said that New South Wales was not satisfied with the constitution of 1850. The only concession of any value was contained in section 32 of the Act which permitted, under certain conditions, the amendment of the constitution. There was only a slight redress of grievances; the Civil List had been decreased but power over the management of the Crown Lands was still retained. Fitzroy summoned the Legislative Council in March, 1851, and, on April 5th, on Wentworth's motion, a Select Committee was appointed to draw up a Declaration and Remonstrance against the 1850 Constitution Act. Three weeks later, it was submitted to the Council and carried. Signed by the Speaker on May 1st., it was sent to the Governor to be forward to the Colonial Secretary.¹⁾

This document stated that the Council considered it its duty before it gave place to the new legislature established by the Act of 1850, to express its deep dissatisfaction and disappointment at the Constitution conferred by that Act. The Council had frequently protested against the Schedules of 5 & 6 Victoria, C. 76 and the appropriation of ordinary revenue under the sole authority of Parliament; the administration of waste lands and territorial revenue; the with-holding of the customs department from its control; the dispensation of the patronage of the colony at the dictation of the Minister for the Colonies; and the veto reserved and exercised by the same minister, in the name of the Crown, in matters of local legislation. It was expected that these grievances would have been redressed or the power of redress

given to the bodies constituted under the Act since such bodies would be more competent than Parliament itself to frame suitable constitutions for the Australian colonies. Instead, the schedules had been increased and the powers of altering these appropriations practically nullified by the instructions of the Colonial Minister. The exploded fallacies of the Wakefield theory were still clung to and the pernicious Land Sales Act (5 & 6 Victoria, C. 36) was still enforced, with the result that thousands of British subjects were annually diverted from the Australian colonies and forced, against their will, to seek a home for themselves and their children in the backwoods of America. The territorial revenue, diminished by this policy, was confined to the introduction of unsuitable immigrants, in many instances the outpourings of the poorhouses and unions of the United Kingdom.

The bestowal of office was, with partial exception, exercised by the Colonial Minister without reference to the just claims of the colonists; the salaries of the officers of the customs and all other departments of the Government included in the schedules, were placed beyond the Council's control and all the material powers exercised for centuries by the House of Commons were still withheld. The Council's loyalty and desire for the maintenance of order and good government were so far distrusted that it was not permitted to vote its own Civil List lest it prove inadequate. The wastelands and territorial revenues, for which Her Majesty was but a trustee, were still reserved to the detriment of all classes and in order to swell the patronage and power of the Ministers of the Crown. In defiance of the Declaratory Act. (18 George III, C. 12, sec.1.) which had hitherto been considered the Magna Charta of the representative rights of all the British plantations, a large amount of public revenue was levied and appropriated by authority

of Parliament for salaries of officers not chosen from among the inhabitants of the colony. Even the most ordinary legislation was subject to the veto of the Colonial Minister. The protest was not only against the Act but also against the instructions of the Minister by which the small power of retrenchment the Act conferred on the Colonial Legislature had been over-ridden.

In conclusion, the Council did "solemnly protest, insist and declare" -

1st. that the Imperial Parliament had not, nor of any right ought to have, any power to tax the people of the colony, or to appropriate any of the monies levied by authority of the Colonial Legislature; that this power could only be lawfully exercised by the Colonial Legislature; and that the Imperial Parliament had solemnly disclaimed this power by 13 George III, Cap. 12, sec.1,¹⁾ which Act remained unrepealed.

2nd. that the revenue arising from the public lands, derived as it was mainly from the value imparted to them by the labour and capital of the people of the colony, was as much their property as the ordinary revenue, and ought therefore to be subject only to the like control and appropriation.

3rd. that the Customs and all other departments should be subject to the direct supervision and control of the Colonial Legislature, which should have the appropriation of the gross revenues of the Colony, from whatever source arising, and, as a necessary incident to this authority, the regulation of the salaries of all Colonial officers;

4th. that offices of trust and emolument should be conferred only on the settled inhabitants, the office of Governor alone

1. This Act applied only to North America and the West Indies and it was always held that it did not interfere with the sole control of the Imperial Government over customs expenses, so long as the net revenue was given to the Colony to appropriate by law. See Keith. The First British Empire. pp. 373-374.

excepted; that this officer should be appointed and paid by the Crown; and that the whole patronage of the Colony should be vested in him and the Executive Council, unfettered by instructions from the Minister for the Colonies;

5th. that plenary powers of legislation should be conferred upon and exercised by the Colonial Legislature for the time being, and that no bills should be reserved for the signification of Her Majesty's pleasure, unless they affected the prerogatives of the Crown or the general interests of the Empire.

For the most part, these declarations were not new but were similar to the Legislature's addresses to Queen and Parliament in 1844. If the original Australian Colonies Bill had been passed, it would have permitted the convocation of a General Assembly which could have dealt with the land grievances mentioned in the second paragraphs but because of amendments due, to some extent, to the opposition of the Australian colonies, control had been left with the Home Government. With regard to the third paragraph, a concession had already been made. While the Navigation Laws were in force, the Customs Department in all parts of the Empire had been controlled by the Treasury. But the Laws were repealed¹⁾ in 1849, and in a circular despatch of August 8th, 1850, Grey directed that the Customs Departments were to be transferred to the colonial governments except certain officers retained for Imperial purposes, and even this reservation was soon waived. This transfer did not take place in New South Wales until October 1st. 1852, and until responsible government was initiated, the control was exercised by the Governor and not the Legislative Council.

A new session was opened on October 16th, 1851, and on

1. Parl. Pap. 1851. XXXV. 1303. p. 42.

October 31st, Wentworth moved for a Select Committee to prepare petitions to the Queen and Parliament setting forth all the grievances of the colony, "whether the result of Imperial Legislation or of Imperial Executive control." This committee of which Wentworth was chairman, presented its report on November 27th and reaffirmed the Remonstrance framed earlier in the year. They said "We owe it to ourselves and our constituents to denounce to your Majesty, as the chief grievance to which the people of this colony are subjected, the systematic and mischievous interference which is exercised by the Colonial Minister in matters of purely local government." They were anxious to strengthen and perpetuate the connection with the Mother Country but it would be impossible to maintain much longer the authority of a local executive compelled to refer all measures of importance for the decision of an inexperienced, remote and irresponsible department. So that the Home Government might have no excuse for the continuance of these grievances, they were prepared on the surrender to the colonial Legislature of the entire management of all revenues, territorial as well as general, including mines, and upon the establishment of a Constitution similar in its outline to that of Canada, to assume and provide for the whole cost of the internal government, civil and military, the salary of the Governor General excepted, and to grant an adequate Civil List on the same terms as in Canada, instead of the sums provided by the Schedules of the 1850 Act.

On December 5th, when the Report was before the Legislative Council, Wentworth spoke for two and a half hours and made what Dr. Sweetman calls "one of the most masterly and significant political speeches ever uttered."¹⁾ He compared the Civil List

to the Stamp Act and quoted from the speeches of Chatham, Burke and Lord Camden in connection with the taxation of the American Colonies. "If, Sir, redress be not granted to us, the time for petitioning will be passed and the colonists must be prepared to take steps to secure their rights. The time will have come when the resistance spoken of by Lord Camden as lawful and right
1) against oppression must be made."

There was strong feeling throughout the Australian Colonies and, in forwarding the petition, Fitzroy said that it was supported by the general and deliberate opinion of the most loyal and influential members of the community and he suggested acceding to it as the contest tended to lessen the attachment of the colonists to the Mother Country. (January 15th, 1852).

2) On January 23rd. 1852 Grey sent Fitzroy his reply to the Remonstrance of April, 1851, It was by no means tactful or conciliatory and, as usual, Grey took the opportunity to air his opinions on the respective powers of the Home and Colonial legislatures. He expressed regret that this Remonstrance should have been one of the last acts of the Council and doubted whether it expressed the feeling of the community as during the framing of the Constitution Act, the Government had taken the trouble to consult the feelings and wants of the colonists. The fact that the new constitution had not been tried strengthened his belief that the declaration did not accurately represent public feeling. Elsewhere he repeated this. "The Legislative Council - echoing, as I believe, not the real opinion of the majority or most intelligent part of the population, but rather that of the most noisy and easily excited - voted what they called a 'Declaration

1. Parl. Pap. 1852. XXXIV. 1534. pp. 21-23.

2. Ibid. p. 25.

and Remonstrance'..... The Legislative Council have fallen into errors both of reasoning and of fact, so obvious that it is difficult to account for them otherwise, than by supposing this State Paper to have been drawn up and voted rather under the influence of excited feelings than with the care and deliberation¹⁾ which would have befitted its importance."

The Despatch went on to repudiate practically all the statements of the Remonstrance. Grey said that the Act of 1850 did not profess to make a new Constitution for New South Wales. Its primary object was to bring about the separation of Port Phillip and its secondary object was to adapt the Constitution to this change. There was one fundamental alteration, namely, giving the legislatures power to amend their own institutions, subject to certain conditions, and the powers thus conferred should be quite sufficient for good government and progressive improvement. He therefore regarded the Remonstrance as a protest against the principles on which the Australian Provinces had hitherto been governed and against some laws affecting those colonies which Parliament had thought fit to maintain, rather than against this particular Act. The powers of the Legislature over the schedules of expenditure were more extensive. He denied that his instructions nullified such powers and was still of the same opinion regarding the permanency of the salaries of the principal officers as he had expressed in the instructions.

The Act, 18 George III. C. 12, which the Council said was violated by the maintenance of these schedules, referred to the imposition of taxes by the Imperial Parliament and to legislatures established by charter. The New South Wales Constitution was created by Act of Parliament and in creating such a constitution,

1. The Colonial Policy of the Administration of Lord John Russell. Vol. II. pp. 107-108.

Parliament had an unquestionable right to impose such conditions as it thought expedient. The waste lands were not the property of New South Wales but were held by the Crown as trustee for the Empire at large and not for particular provinces. The value of the New South Wales waste lands was due to money spent by the British Government in founding, maintaining and defending the settlements and to the land policy adopted by the British Government was due that "extraordinary and, I believe, unparalleled advance the Colony has made in wealth and prosperity."

Public opinion had hitherto expressed satisfaction with the results of the Government's immigration policy except in the case of "Assisted Emigration" of which Grey had not approved but which was advocated by gentlemen who were supposed to enjoy the confidence of the Colonists and by the Parliamentary Agent.

With regard to the Customs Department, the Legislative Council had evidently overlooked his Circular Despatch of August 8th, 1850, by which this department, formerly controlled by the Lords Commissioners of the Treasury (as was necessary while the former Navigation Laws were in force) had been entrusted to the local governments. On the subject of official appointments, he declared that the Government could not recognise on the part of the inhabitants of New South Wales any monopoly to such situations in New South Wales. The positions could be bestowed on any of Her Majesty's subjects and the inhabitants of New South Wales were not disqualified from receiving appointments in other parts of the Empire. At any rate, they had no practical grievance, since for several years past, the Governor's nominations had always been approved by the Colonial Secretary.

When, in the last paragraph, the Legislative Council claimed plenary powers, it was attacking a rule that was in force in all

the colonies and to alter it in the case of New South Wales would lead to a general change of system which was not justified. The right of Imperial veto could not be abandoned with safety to the permanance of the connection between the Mother Country and the colonies, nor would it be practicable to distinguish between matters of local and Imperial concern, giving the Legislature full power over the former and reserving the veto for the latter. It would be difficult to discriminate between the two classes and there would be uncertainty, while local opinion on Imperial matters was valuable. Again the grievance was theoretical, for since the establishment of representative institutions, not more than seven New South Wales acts had been disallowed and about the same number returned for amendment, nearly all during the first three sessions when the Constitution was new.

This communication naturally called forth a vigorous reply from the Legislative Council but, meanwhile, Grey had been succeeded by Sir John Pakington so it was Pakington who received the reply and Grey was deprived of the opportunity of inditing another homily for the benefit of the colonists. Pakington had already adopted a conciliatory attitude towards the colonies when in June, 1852, he surrendered the gold revenue of New South Wales and Victoria in order that those colonies might meet the large and unexpected expenses which the gold discoveries had suddenly¹⁾ caused. The Legislative Council's reply of August 10th, 1852, was so strongly worded that Fitzroy, in forwarding it, expressed his regret that Pakington should have had to receive a document²⁾ so discourteous to his predecessor at the Colonial Office. It refuted Grey's opinion that the Remonstrance did not reflect the opinion of the people of New South Wales by pointing out that it

1. Parl. Pap. 1852-3. LXIII. 1611. pp. 23-27.
 2. By the time the despatch reached the Colonial Office, Newcastle had succeeded Pakington.

was carried by 18 votes to 8. With regard to the veto, it pointed out that the North American Colonies possessed Responsible Government and, therefore, scarcely any of their measures were reserved for the approval of Her Majesty. When in the reign of George III, the Crown and Parliament began directly meddling with the functions of the Legislatures of the North American Colonies, troubles arose which led to the separation of most of these colonies from the Empire. This was probably a hint that something similar might happen in New South Wales. Further, the address declared that the British Constitution, as far as applicable to their circumstances, was the birthright of the colonists and they would be content with nothing less. It ended with the following statement: "Nor will we be deterred from the assertion of our undoubted rights by the flattery, the imputations, or the obstinacy of any Minister, but will continue our efforts until all we contend for, all that is necessary to place us on a perfect equality with our fellow-citizens abroad, is conceded to us, and our posterity once and forever."

Grey's policy had roused the feelings of the New South Wales Council and their opposition to it was increased by the feeling of strength and independence resulting from the gold discoveries. This was evidenced by Wentworth's motion, carried on August 25th, to withhold supplies for 1854 unless a favourable reply was received to their address. In forwarding this resolution, Fitzroy again urged the Home Government to grant the requests made by the Legislature.

On September 17th, 1852, the Select Committee appointed on June 16th to draw up a constitution for New South Wales presented its report together with three draft bills.¹⁾ As the committee

1. Parl. Pap. 1852-3. LXIII. 1611. pp. 29-42.

had been uncertain whether section 32 of the Act of 1850 gave the Legislature sufficient power to frame a suitable constitution, they drafted a bill enabling the Queen to assent to the other two bills which were attached as schedules. The first Schedule X, was "An Act for granting a Civil List to Her Majesty" and the second, Schedule Y, was "An Act to confer a constitution on New South Wales."

Schedule X provided that 1. All taxes, imposts, rates and duties and all territorial, casual and other revenues of the Crown, including royalties, should form one Consolidated Revenue Fund;

2. The sum mentioned in the schedules should be accepted and taken by Her Majesty by way of a Civil List instead of all territorial, casual, and other revenues, including royalties, of the Crown, and

3. None of the foregoing should have effect until the repeal of the Waste Lands Act.

Schedule Y provided for two houses, a Legislative Council and a Legislative Assembly. The committee reported that their chief difficulty had been to devise an Upper House that would be "an effectual check on the democratic element in the Assembly, and at the same time competent to discharge with efficiency the revising, deliberative, and conservative functions" which would devolve upon it. Some members had proposed a nominated body, others an elective but a compromise was made by providing that the Governor should nominate two-thirds of the members from among persons who had been elected to the present or a former Legislative Council. These members were to hold office for life while the remaining third, who were also nominated, were to hold their seats during Her Majesty's pleasure. The Council was to consist of not less than 21 members. The Assembly was to contain 72 members and its duration was to be not longer than 5 years. The suffrage

was granted to freeholders of £100 clear value, householders of £10 annual value and holders of pastoral licences. Default in the payment of rates disqualified from voting. The number of representatives might be altered by a majority of the Council and a two-thirds majority of the Assembly. Money bills were to originate in the Assembly on the recommendation of the Governor but the Council could amend them. The high officials who were to be eligible as members of the Assembly were enumerated. Acceptance of other offices excluded from a seat in the House. Ministers of religion were also disqualified. An oath of allegiance was required of all members of both Houses before taking their seats or voting. The Civil List to be granted on the surrender to the Colonial Legislature of all revenues of the colony, the territorial included, was to be precisely the same in distribution and in amount as that appended to the Act of 1850.

The first reading of the proposed constitution took place on October 1st., but the second was postponed in order to obtain public opinion on it and also to see the result of Remonstrance and Petition. Pakington's reply came early in 1853 so the bills were abandoned although parts were afterwards incorporated in the Constitution Bill of 1853.

The Remonstrance and Petition of the Legislative Council was put before the House of Commons on June 17th, 1852. Gladstone termed it a document of much historical interest. Disraeli objected to expressions which were lacking in respect to the Queen as, for example, terming her only the trustee of her own dominions, but it was felt that to postpone its reception would "put an affront of the strongest kind on the colony."

On June 18th, it was read to the House of Lords where Grey had an opportunity to speak on it. He warned the House against throwing all power into the hands of an utterly unbalanced democracy and forming

a government that would not promote the true freedom of the inhabitants of the colony. He expressed the opinion that many of the principles put forward were quite inconsistent with the maintenance of any colonial empire at all.

When a member of the House of Commons urged Pakington to remember the experience of former days, i.e. the loss of the American Colonies, and to yield the reasonable demands of New South Wales, Pakington replied that he felt it was the duty of the House to grant every fair claim put forward and that he meant to act on this principle.

"The Times" of June 21st, 1852, added its voice on behalf of New South Wales. "A stern necessity will shiver to atoms the Acts of Parliament by which we have sought to fetter the colonies; will give them the management of their lands, their revenues and their laws, and give them, whether we wish it or not, the fullest powers of self government. It only remains with us to say whether this shall be gracefully conceded, or wrested from us by tumult and violence." And again - "It therefore becomes our duty, as the friends and champions of the unrepresented, to point out what are the grievances of which the colonists really complain, and which, if left much longer unredressed, threaten to rend from England the most valuable of her dependencies."

It seemed as if the seriousness of the situation was at last realised and when, on December 10th, Molesworth asked Pakington what had been done about the petition, the minister replied that he and his colleagues were carefully considering every part of it as well as the changed conditions in the Australian colonies and he promised to make a statement at an early date. However, his ministry went out of office but he was able to tell the House on February 24th, 1853, how the petition had been dealt with. He said the Government could have refused to make concessions and maintained the connection with the colonies by force but they preferred to win their confidence, conciliate

them and so maintain their attachment to the Mother Country.

Pakington's famous despatch was sent to the Governors of Victoria and South Australia as well as New South Wales on December 15th, 1852, and to the Governor of Tasmania on December 14th so that the other colonies also benefitted by the work of the New South Wales legislature.¹⁾ Dr. Sweetman calls them "the most momentous and conciliatory despatches probably ever addressed by the Colonial Office to any British overseas possession."²⁾

The despatch stated that the Government was impressed with the importance of the New South Wales petition and realised that it represented the feelings of the most loyal, respectable and influential members of the community. The gold discoveries had produced unparalleled conditions and the Home Government had been impressed by the firmness and good judgment which the local authorities had displayed under such strange and difficult circumstances and which showed that the colonists were fit to regulate their own affairs under amended legislative institutions.

In many points, Pakington agreed with Grey's despatch of January 23rd, 1852. There was no ground for complaint as to the distribution of patronage in the Colonies and if those appointments were available only for colonists, it would be prejudicial to the public service. Control of the Customs had already been conceded to the local legislatures by Grey's despatches of August 8th, 1850, and February 12th, 1852, but the Government was willing to consider any proposals the legislatures liked to make on the subject. With regard to the exercise of the veto, the Government was agreeable to exempting acts of a strictly local character if any practicable mode could be devised of distinguishing local from imperial subjects, but they could not see any practicable

1. Parl. Pap. 1852-3. LXIII. 1611. pp. 44-48.
 2. Australian Constitutional Development. p. 262.

substitute for the present system. However, as the Royal Prerogative was then exercised, the grievance was rather theoretical.

The Government were willing to accede to the wishes of the Council regarding the first two points of the petition, i.e. taxation and the control of waste lands, "in a spirit of entire confidence." The administration of the waste lands was conceded not as an absolute right, (here Pakington agreed with Grey) but because it was expedient under the changed conditions in the colonies. They believed that the Land Sales Act had not been pernicious and that benefit had resulted to those colonies which had adhered to its principles, but the disadvantages now outweighed the advantages. The removal of the restrictions on the selling price of land and the application of its proceeds was left to the local legislatures. The amount formerly expended by the Lords Commissioners of the Treasury was to be entrusted to the legislature. Immigration was now more than ever necessary to the welfare of the colony and the cost of it should be undertaken by the legislature. This concession was just as well as expedient, as it had been made to the principal North American colonies and to New Zealand.

The Government agreed that the sums reserved in the Civil List were unnecessarily large and, although the instructions complained of imposed only the restriction that any Act altering their amount and distribution should be reserved for Royal confirmation if affecting existing interests, yet the wishes of the Council would be met on this point too.

Pakington then went on to announce the Government's decision to discontinue transportation to Tasmania as soon as the necessary arrangements could be made.

In conclusion, he referred to the fifth paragraph of the petition and agreed that amendments in the constitution were advisable. The

rapid progress of New South Wales in wealth and population rendered it necessary that the form of its institutions should be more nearly assimilated to that prevailing in the Mother Country and should be better adapted to the enlarged functions and increased responsibilities which would devolve on the legislative body. He stressed the importance of a double chamber for safe and satisfactory government and said it was the wish of the Government that there should be an elective Assembly and a Council nominated by the Crown. The power of the legislature to amend its constitution would not be exhausted by its exercise on this one occasion but would be retained for any further reform which might be expedient in the future. On the receipt of the proposed new constitution with a civil list attached, the Government would propose to Parliament the measure necessary to effect the change, namely the repeal of the Land Sales Act, and the alterations in the Constitutional Acts and the Schedules annexed. The Civil List should provide for the salaries of the principal officers at their present rate, until altered by Act. The Governor, Judges, Colonial Secretary, Treasurer and Auditor-General, and Attorney and Solicitor-General should be considered within this description. The sums for pensions and public worship should also be maintained. Shortly after this, Pakington was succeeded by the Duke of Newcastle who, on January 13th, 1853,¹⁾ wrote to Fitzroy expressing his agreement with Pakington's despatch except that he withdrew the condition regarding the two legislative houses as he felt that the Legislative Council would be competent to decide on that question. This was contained in a despatch replying to the threat of the New South Wales Council to withhold supplies for 1854 if their requests were not granted.

Concessions similar to those of New South Wales were made to Victoria and South Australia but Tasmania and Western Australia had

1. Parl. Pap. 1852-3. LXIII. 1611. pp. 48-49.

to wait until transportation to their shores ended,

The tone of Pakington's despatch, though firm, was conciliatory and one cannot help contrasting it with the dogmatic and argumentative tone of Grey's answer to the demands of the Legislative Council. Grey considered that granting the requests of an utterly unbalanced democracy would lead to the separation of the colonies from the Empire but Pakington and his colleagues thought differently. The closing words of this important despatch show the difference between their attitudes. "And in the meantime, it is to me a source of very great satisfaction to be the agent for conveying to you the consent of Her Majesty's Government to measures which, they trust, will not only tend to promote the welfare and prosperity of the great colony over which you preside, but also to cement and perpetuate the ties of kindred affection and mutual confidence which connect its people with that of the United Kingdom." Dr. Sweetman says "Sir John Pakington was in very truth 'a Lord Durham' not only to New South Wales but also to all Australia."¹⁾

These despatches of Pakington and Newcastle were received during the excitement following on the gold discoveries and therefore did not attract the attention they would have done under ordinary circumstances, but the Press commented not only on the concessions but also on the generous spirit in which they had been made and they certainly had the effect of strengthening the attachment of the Colonies to the Mother Country now that the causes of dissatisfaction and irritation were removed.

On May 10th, 1853, Fitzroy placed the despatches before the Legislative Council and on May 20th, on Wentworth's motion, a

1. Australian Constitutional Development, p. 270.

1)
Select Committee was appointed to prepare a constitution. On May 27th, when a member brought forward two motions to express to the Crown the profound gratitude of the Council for the concessions and to affirm that they could not fail to perpetuate the loyalty of the colonists to the Throne, Wentworth moved as an amendment that the despatches relating to the Constitution should be referred to a Select Committee. This gave members, and Wentworth in particular an opportunity to express their appreciation of the despatches. 2)
The committee reported on June 10th and its resolutions stated that the Council expressed its deep sense of the conciliatory spirit shown in the despatches of Sir John Pakington and the Duke of Newcastle; that they hoped the communications heralded the commencement of a new and auspicious era in the Australian colonies; and that they recorded their appreciation of the efforts of Governor-General Fitzroy who had recommended that the concessions should be made.

The committee appointed on May 20th brought forward its report on July 28th. 3) The report was accompanied by two bills, one to confer a constitution on the colony and grant a Civil List to Her Majesty, the other a draft of a proposed Act to be passed by the Imperial Parliament to make the Bill legal. The constitution prepared in the previous year was used as a basis but alterations were made owing to changed circumstances. The committee proposed a form of government based on the analogies of the British Constitution. They had no desire to sow the seeds of a future democracy and so until they were sure that a nominated Upper House would not act as a safe, revising, deliberative and conservative element between the Lower House and the Governor,

1. Parl. Pap. 1854. XLIV. 1827. pp. 2 - 5.
2. Ibid. pp. 7 - 8.
3. Ibid. pp. 14-24, and pp. 29-39.

they did not feel disposed to experiment with an elected Upper House as once the franchise was granted it would be difficult to withdraw. Therefore, they proposed something similar to the clauses contained in the Imperial Act 31 George III. C. 31. providing for the government of Quebec. By this Act, the Crown could confer on persons to whom under the prerogative titles had been granted a hereditary right to be summoned to the Legislative Council. The Committee did not recommend the introduction of a right by descent to a seat in the Upper House but thought that by creating hereditary titles, leaving it to the Crown to grant the first holder a seat for life in the Upper House and conferring on original holders and their successors power to elect certain of their number to form the Upper House, they would establish a better form of Legislative Council than any that had yet been tried. Such a house would be free from the objections urged against the House of Lords and would lay the foundation of an aristocracy which would induce respectable families to migrate and remain in the colony. A somewhat similar proposal had been made the previous year in a pamphlet by J.N. Dickinson, a judge of the Supreme Court. Another interesting point in the report concerned the recommendation to establish at once a General Assembly to make laws in relation to the inter-colonial questions, such as inter-colonial tariffs and coasting trade; railways; roads; canals etc. running through any two colonies; lighthouses; inter-colonial penal settlements; postage; gold regulations; a general Court of Appeal; power to legislate on other subjects by invitation of any colony and to appropriate necessary funds raised by a percentage on the revenues of all the colonies interested. No provision was made in the bill for such a body but it was hoped that the Imperial Parliament would legislate

on the subject as it was indispensable and should not be delayed any longer. Although no reference to responsible government had been made in Pakington's despatch of December 15th., 1852, most people felt that the introduction of a constitution similar to that of Canada made responsible government inevitable and one member of the Council said that responsible government was asked for when they requested a constitution like Canada's. Fitzroy saw that it must come and addressed a despatch to Newcastle on the subject. The minister replied (August 4th., 1853)¹⁾ that it was very desirable to prepare to regard its introduction as a change that could not long be delayed and for which the way should be smoothed as far as possible by the removal of unnecessary impediments. He urged that no injustice should be suffered by officials who would be affected by the change. They should be pensioned or given some other fitting compensation. He advised that the change should be made after the two houses had been set up and before there was any decline in the prosperity of the country. This despatch, of course, had not been written when the report was made but the latter contained reference to responsible government. "There can be no doubt that the moment the consolidated revenue of the colony is placed at the disposal of the Legislative Assembly, consisting entirely of members chosen by popular constituencies, Responsible Government will take effect."

The constitution bill was much discussed both inside and outside the Legislative Council, the clauses arousing most interest being those concerned with the composition of the Upper House. It was proposed that the Crown should grant hereditary titles giving the original patentee the right to be summoned to the Legislative

1. Parl. Pap. 1854. XLIV. 1827. pp. 62-63.

Council and when the number of those with such titles amounted to 50 or upwards, they should elect 20 of their number to constitute a new Legislative Council in place of the former. Wentworth strenuously supported this plan maintaining that the Australian subjects of the Crown should be entitled to honours as well as those living in the Mother Country. He held that an elective Upper House would lead to separation and the formation of a republic under a president. A Democratic League, formed in Sydney in 1852, about the time when the proposed constitution of that year was published, vigorously attacked the clauses, declaring that, if they were passed, New South Wales would become a land of serfs governed by an aristocratic oligarchy. Henry Parkes was a member of this league and in the paper which he edited, the Empire, he further criticised the proposals.

A committee of the Privy Council had recently recommended an elective Upper House for the Cape Colony and public opinion in New South Wales was divided in supporting either an elective or a nominated Legislative Council. The Press, on the whole, favoured a nominated house, an elective house being considered anti-British and anti-monarchical. When the House went into committee, the hereditary clauses were dropped and replaced by provisions for a nominated house. The bill passed its third reading on December 21st, 1853, and received the Governor's assent the next day. As Wentworth and Deas Thomson were going to England, the Legislative Council appointed them to watch over the progress of the bill in the British Parliament.

The Council also passed a series of resolutions to accompany
 1) the bill. These stated that the bill embodied all the rights for

1. Parl. Pap. 1854. XLIV. 1827. pp. 40-41. Bell & Morrell.
 British Colonial Policy. p. 164.

which the Council and its predecessors had contended and, if passed, would redress the grievances set forth in the Remonstrance of 1851. It conferred plenary power of legislation in all matters of local and municipal concern and limited to enumerated cases bearing on the prerogative of the Crown and Imperial interests, the double power of veto. It enlarged the basis of representation, established for the first time in the colony an independent judiciary and abolished the schedules of the existing constitution act, thereby implying that the Imperial Parliament had no right to tax the inhabitants or appropriate any part of the revenues. The legislature gained control of the waste lands and all revenue from whatever source except the voluntarily granted Civil List. It established responsible government and gave to ministers the appointment to all offices in the colony. The legislature had tried to approximate the constitution as closely as possible to that of the Imperial Parliament, to strengthen the British institutions already established, to introduce those not yet adopted and to strengthen the union with the Mother Country.

The chief sections of the constitution bill were -

1. In place of the existing Legislative Council, there should be a Legislative Council and a Legislative Assembly; Her Majesty with the advice and consent of such Council and Assembly, should have power to make all laws for the peace, welfare and good government of the colony; Taxation and Appropriation Bills should originate in the Assembly; and Bills affecting Imperial subjects might be referred at the discretion of the Governor for Her Majesty's pleasure;
2. Bills on Imperial subjects should be
 - (a) Bills touching the allegiance of the inhabitants of the colony to Her Majesty's Crown;
 - (b) Bills touching the naturalization of aliens;

(c) Bills relating to treaties between the Crown and any foreign powers;

(d) Bills relating to political intercourse and communication between the colony and officers of a foreign power or dependency;

(e) Bills relating to the employment, command and discipline of Her Majesty's sea and land forces within the colony, and whatever related to the defence of the colony;

(f) Bills relating to the crime of high treason.

3. If any questions should arise as to the Governor's right to reserve a Bill, or of Her Majesty's right to disallow a Bill, they should be determined by the Judicial Committee of the Privy Council.

4. The Legislative Council should be appointed by an instrument under the sign manual authorising the Governor, with the advice of the Executive Council, to summon such persons, not being fewer than twenty-one, to be members of the Council; and not less than four-fifths of the persons so summoned should consist of persons not holding any office of emolument under the Crown;

5. The members of the first Legislative Council so summoned should hold their seats for five years; all future members to hold their seats for life, subject to provisions subsequently to be provided;

6. The Governor should appoint a President to the Legislative Council with the right to take part in any discussions which might arise;

7. The Assembly should consist of fifty-four members, to be elected by the inhabitants of the colony;

8. Every man of the age of twenty-one, being a natural born subject of Her Majesty, having a freehold estate of the clear value of £100, or being a householder, occupying premises of the clear amount value of £10, or holding a licence from the Government to

depasture lands, or having a salary of £100 per annum, or paying £40 for board and lodging, or £10 clear for lodging, should be entitled to be registered as an elector;

9. (Section 17) Power should be given to alter the system of representation by a majority in the Legislative Council, and by a majority of two-thirds in the Legislative Assembly;

10. Any person who was absolutely free, and qualified to register as a voter, should be qualified to be elected a member of the Assembly;

11. Persons holding an office of profit under, or having a pension from, the Crown, should be incapable of being elected to the Assembly, except the Colonial Secretary, the Colonial Treasurer, the Auditor-General, the Attorney-General, the Solicitor-General, or any one of such additional officers, not being more than five, as the Governor with the advice of the Executive Council should from time to time declare capable of being elected a member of the Assembly;

12. No minister of religion should be eligible for election to the Assembly;

13. The duration of the Assembly should be for five years, unless sooner prorogued or dissolved by the Governor;

14. The Speaker of the Assembly was to be elected by the members of that body;

15. No member should sit in either House until he had taken the oath of allegiance;

16. Every bill passed by the two Houses should be presented to the Governor for the assent of Her Majesty, and if it referred to local or municipal affairs, the Governor should declare at once whether he assented to it or not; and on Bills relating to Imperial subjects, he should declare whether he assented, whether

he withheld Her Majesty's assent, or whether he reserved it for the signification of Her Majesty's pleasure;

17. Any Bill on any Imperial subject assented to by the Governor should be forwarded to one of Her Majesty's principal Secretaries of State, and it should be lawful within six months after such Bill had been recommended to Her Majesty to disallow it by Order in Council.

18. (Section 42). The Legislature, as constructed by the Act, should be empowered to alter any of its provisions by the concurrence of two-thirds of the members of both Houses, such Bill to be reserved for the consent of Her Majesty, and a copy of such Bill should be laid before both Houses of the Imperial Parliament for the period of thirty days before Her Majesty's pleasure is signified;

19. Appointments to all offices under the Government of the colony, whether salaried or not, should be vested in the Governor;

20. The Judges were to continue in the enjoyment of their offices during good behaviour.

21. The Legislature was empowered to make laws regulating the sale of waste lands;

22. All duties and revenues, from whatever sources arising, should form one Consolidated Revenue Fund to be appropriated to the public service of the colony;

23. The Civil List of £64,300 was payable to Her Majesty out of the Consolidated Revenue Fund;

24. The Civil List should be accepted by Her Majesty instead of all territorial, casual and other revenues of the Crown, including royalties, from whatever source arising in the colony;

25. Not more than £5,900 in each year should be payable by way of pensions or retiring allowances for the present incumbents of

office who might be retired or relieved of office on political grounds;

26. The consolidated revenue should be appropriated by Act of the Legislature; and no money vote or Bill should be lawful unless recommended by the Governor;

27. The entire management of the Crown Lands and of all revenues thence arising should be vested in the local Legislature.

The Constitution Bill and the bill accompanying it to enable Her Majesty to assent to the former, reached Sir George Grey, Secretary of State for the Colonies, on May 31st. 1854, and had to be held over for the next session of Parliament. On May 17th, 1855, Lord John Russell introduced the two bills into the House of Commons where the chief opposition came from Lowe who held that the majority of the people of New South Wales were opposed to it and that it was not valid. It involved principles fatal to all good government in the colonies and he said the Civil List was of unexampled extravagance. He believed the nominated chamber was nothing but an iniquitous device of a small oligarchical clique. The Legislative Council had exceeded its powers and, if the Imperial Parliament amended the bill, it would be a different measure. He protested against passing a bill to enable the Queen to assent to a constitution bill that was different from the one prepared by the Legislative Council. He suggested that the bill should be sent back for amendment or else that the Imperial Parliament should legislate directly.

Lord John Russell objected to the delay that would be caused by the first course and the second was prevented by Section 32 of the 1850 Constitution Act. He proposed deleting the sections to which the Queen could not give her consent and passing the rest of the bill. This was done and, two important omissions having

been made, the bill was passed by both Houses and received the Royal Assent on July 16th, together with an act repealing the Waste Lands Act.

Russell forwarded the Act to Denison who had succeeded Fitzroy¹⁾ and his despatch of July 20th, 1855, explains the omissions which Parliament had made. "But those portions of the provincial enactment which controlled and regulated the future power of the Crown as to the reservation and disallowance of colonial Acts, and as to instructions to be given to Governors respecting them, have been omitted by Parliament. These portions were plainly not of a local character, but regarded the connexion of the colony with the body of the Empire." The only other portions omitted were clauses 53 and 54 which went beyond the functions of the legislature, relating as they did to other colonies besides New South Wales. These clauses defined the boundaries of the colony and provided that in case of any change of boundaries, the assent of the colony losing territory should be given. The new legislature would have full power to alter all the provisions of the Bill, as well as those specified in clauses 17 and 42, subject to the conditions imposed by those clauses and also to repeal those conditions by simple majorities. Any bill for repealing those conditions was to be reserved for Her Majesty's approval. In this way, it was hoped that free and full reconsideration of the Constitution of the Legislative Council or Upper House would be allowed. Provision was made for the separation of the northern territories of New South Wales when it was thought fit.

Referring to the introduction of responsible government, he said, "It is so evident from the provisions of the Colonial Bill

1. Parl. Pap. 1856. XLIII. 2135. pp. 15-18.

before me, that your advisers and the Legislature have had fully in view the exigencies of that system, that I am not aware that any special directions are required from my self. You will shortly receive a fresh Commission and Instructions amended in those particulars which the introduction of that system renders it necessary to change."

With regard to establishing a federal union, Russell said that the Government had decided that the time was not opportune for such an enactment, although they would give the fullest consideration to any propositions which might emanate in concurrence from the respective Legislatures.

On October 13th, 1855, the Legislative Council had appointed a Select Committee "to inquire into and to report upon the powers and duties of the chief officers of the Executive Government, with a view to ascertain if any and what alterations would be necessary to carry out the principles of Responsible Government, as contemplated by the Constitution Act of 1853." The chief points of its report presented on December 7th, were -

1. That on the coming of the Constitution Act into force, the advisers of the Ministers of the Crown were to be subject to what, under the British Constitution, was designated ministerial responsibility, and that the Act itself, although it nowhere directly alluded to such responsibility (as perhaps it could not regularly do) in several places so evidently implied its introduction that it must be taken that hereafter, the Government was to be, in the fullest sense of the term, responsible to the Legislature;

2. That it would not be unbecoming in the Legislature by which the Constitution Act was passed to suggest, at the close of its career, the mode by which the Responsible Government, which owed

its origin to that Act, was to be carried on;

3. That the number of Responsible Ministers, exclusive of those connected with the law, ought not to be less than four, and that should this number be decided upon, they should be

(a) The Chief Secretary and Premier,

(b) The Secretary for Finance,

(c) The Secretary for the Interior,

(d) The Secretary for the Public Works,

4. That by dividing the labour and responsibility of office in that way, public questions would receive an amount of attention, which, under the existing centralised system, was utterly impossible;

5. That the Governor would then occupy a position as nearly analogous as possible to that of the Sovereign whom he represented; and that instead of being called upon to decide all matters for himself, he would enjoy the great advantage of acting only in accordance with the views of his responsible advisers;

6. That the committee hoped that the great change about to take place in the administration of the colony would not have its value impaired by any erroneous views entertained by Her Majesty's representative of the position he was to hold with respect of his responsible advisers;

7. That the despatch from Lord John Russell with the Constitution Act clearly showed that the Imperial Ministry contemplated that the Responsible Government conceded to the colony was not to be considered either a sham or a fiction but a reality.

The new constitution was proclaimed on November 24th, the first Parliament met on May 22nd, 1856, and the first responsible ministry was formed under the Premiership of Stuart Donaldson. At a banquet held on July 17th to celebrate the occasion, Dr. Bland was persuaded to come out of his retirement and act as chairman

and the speakers paid tribute to those men who had taken part in the constitutional struggles of the colony - Wentworth, Jamison, Bland, James Macarthur. At the same time they did not forget Governor Fitzroy and they gave due praise to the British ministers who had granted these concessions.

(b) Victoria.

The grant of responsible government to Victoria, as to South Australia and Tasmania, was very largely the result of the agitation in New South Wales. The colony was not nearly so discontented as the older one although there was dissatisfaction over the administration of the waste lands and the lack of any control by the Legislature over the government officials. The Legislative Council seemed to have been too fully occupied in dealing with the conditions which had arisen as a result of the gold discoveries to be concerned with constitutional reform.

In July, 1852, Fawcner moved for the appointment of a select committee to inquire into the constitution but the proposal was defeated and, in September of the same year, a notice of motion to the effect that the colony should have responsible government similar to that of Canada was before the Council five times but no vote was taken.

The next move came from the Home Government. In the following session, the historic despatches of Pakington (December 15th, 1852) and Newcastle (February 8th, 1853) were laid before the Legislative Council on September 1st, 1853, and a select committee was appointed to prepare a draft constitution. Their report was presented on December 9th.¹⁾

They proposed to establish a Legislative Council of 30 members

1. Parl. Pap. 1854. XLIV. 1827. pp. 73-98 and pp. 101-124.

and a Legislative Assembly of 60 members, both houses to be elected. It was felt that the nominee system had been a failure in that it had not checked extreme views and the committee did not feel bound by Pakington's despatch to set up a nominated Upper House but preferred to take advantage of the views expressed by Newcastle. A freehold qualification was required for both members and electors of the Legislative Council - lands and tenements valued at £5,000 or £500 per annum for members, and freehold estate of £100 value for electors. Barristers, solicitors, ministers of religion and retired army and navy officers were also entitled to vote. Members were elected for 10 years but retired in rotation every two years.

The members of the Legislative Assembly had to have freehold property worth £2,000 or £200 per annum and the franchise was given to those who had £10 lease-hold or occupation, freehold worth £50 or £5 per annum, £100 yearly income. and to householders occupying a building of £10 annual value. The Assembly was to sit for three years, unless dissolved before, it was to meet at least once a year and was to be the sole origin of all money bills which the Council could refuse or return but not amend. The Governor could reserve a bill if it affected specific Imperial interests.

A Civil List provided for the expenses of the Governor, the Judiciary, the ministers and officials and for public worship. No person holding a place of profit under the Crown or government contractor, except the ministers, was to sit in Parliament. The eight responsible ministers were the Chief Secretary, the Attorney-General, the Treasurer, the Commissioner of Trade and Customs, the Commissioner of Crown Lands and Survey, the Postmaster General, the Solicitor-General and the Commissioner of Public Works. At least

two responsible ministers were to be in each House. A majority of two-thirds of the members of both Houses was required to alter the constitution and the bill had to be reserved for the royal assent. Later a clause was inserted excluding ministers of religion from membership of the Assembly.

The bill caused little discussion and was passed on March 24th, 1854. It arrived in England on May 31st. and had to be held over until the next session of Parliament. This delay called forth from the Legislative Council on November 14th an address urging the immediate passing of the measure and deprecating any attempt at making all the Australian constitutions alike. The bill, introduced by Lord John Russell, passed the British Parliament with little discussion, proving far less controversial than the constitution bill of 1850. Lowe's objections have already been mentioned in connection with the New South Wales constitution and there was some objection to the provisions for the allocation of money for public worship. Adderley moved the rejection of the clause retaining provisions of former statutes on the subject of the royal veto. He objected to the power of the Home Government to annul bills which had received the Governor's assent as he considered the Governor should have full discretion but the motion was lost. The bill received the royal assent on July 16th, 1855, together with the bill to repeal the acts regulating the control of waste lands (5 & 6 Victoria, C. 36 and 9 & 10 Victoria, C. 104.)

In forwarding the Act to the Lieutenant Governor, Lord John Russell explained¹⁾ that the clauses attempting to control the relations between the Crown and the Governor were omitted because instructions to Governors with regard to assenting to colonial

1. Parl. Pap. 1856. XLIII. 2135. pp. 45-47.

measures were uniform throughout the Empire and, though binding on the Governors, were in no way conditions necessary to give validity to colonial legislation. He also pointed out that the Civil List might be amended as long as no injustice was done to existing officials.

The new constitution was proclaimed in Victoria on November 23rd, 1855, Haines formed the first ministry and the first parliament under the new constitution met in November, 1856.

(c) South Australia.

Self-government occupied a prominent place in all the schemes which the "systematic colonisers" drew up for the colonisation of South Australia and the Act (4 & 5 William IV, C. 95) under which the colony was founded provided that when the population reached 50,000, it would be granted a "constitution of local government." Although no indication as to the nature of this constitution was given, there was a general impression that it would provide for representation. Following the disastrous early years of the colony, a petition of the inhabitants on December 19th, 1839, asked for the right to elect representatives to the Legislative Council and the Governor on June 27th, 1840, supported the request, but as the population had not yet reached the requisite 50,000, it was not complied with.

A Parliamentary Committee, inquiring into South Australia's difficulties in 1841, urged that the Legislative Council should contain some representatives elected by the people. The Act of 1842 (5 & 6 Victoria, C. 61), which abolished the Board of Commissioners, provided the Governor with a Council of 7, 4 of whom were to be non-officials. Provision was also made for a General Assembly elected by the people and a Legislative Council

nominated by the Crown, or a General Assembly composed of nominees and elected representatives. This did not satisfy the South Australians who, from time to time, petitioned for popular representation. The improvement of the financial condition of the colony during Governor Grey's administration, followed by the discovery of copper at Burra and Kapunda, enabled the colony to reach the stage at which it could meet the expenses which would accompany self-government and so South Australia was included in the scope of the Australian Colonies Act of 1850.

Accordingly in 1851,¹⁾ the Legislative Council passed an act which provided that the Legislative Council should consist of 16 elected members and 8 nominated by the Crown. Soon after this a movement began which aimed at the establishment of two houses and, on October 14th., 1852, a Select Committee was appointed to inquire into the question of amending the constitution. On November 12th., they presented their report which recommended that there should be two houses, both elected, the Upper House to consist of from 12 to 40 members and the Lower House, or House of Assembly, to consist of not fewer than 24, provided that this number might be increased as the population increased.

On July 21st., 1853, Governor Young placed Pakington's and Newcastle's despatches before the Legislative Council. Pakington said that as he did not know the feeling of the South Australians on the question of a new constitution, he had thought it best that the Governor and the Executive Council should consider his despatch with a view to finding the best way to give effect to the

concessions.²⁾ The Council decided that a bill should be introduced to provide for a nominated Upper and an elected Lower

1. Parl. Pap. 1852. XXXIV. 1534. pp. 152-161.

2. Parl. Pap. 1852-3 LXIII. 1611. pp. 72-73.

House and this was done on July 21st, at the same time as the despatches were presented. As the report of the Select Committee of the preceding year was not full enough to provide a basis for a new constitution, the Governor in Council prepared two bills, one for amending the constitution, the other for granting a Civil List. The former was read for the first time on July 26th, and the debates showed that many members were in favour of an elected Upper House. It was moved and seconded that a clause to this effect should be inserted in the bill but the nominated members held that the terms of Pakington's despatch prohibited this. The Colonial Secretary stated that, if the motion were carried, the Government would drop the bill and also oppose any other that might be introduced with this object. A compromise was agreed on by which the section providing for a nominated Upper House was passed on condition that the constitution of the Legislative Council might be changed by the vote of a two-thirds majority of the House of Assembly after the expiry of nine years without the concurrence of the Legislative Council.

The Act was passed on September 29th, Other provisions were for the nomination of not more than twelve members to the Council for life and the election of 36 members to the House of Assembly for the period of three years. All appropriation and taxation bills were to originate in the Assembly and all questions of reservation of bills by the Governor or disallowance by Her Majesty were to be decided by the Judicial Committee of the Privy Council.

The Act to grant a Civil List to Her Majesty was passed on November 2nd, and provided that all duties and revenues should form a Consolidated Fund. The amount of the Civil List was to be £18,000 and was to be accompanied by the surrender of the territorial, casual and other revenues of the Crown. It provided for

compensating officials who might lose office when the Act came into force. The legislature was to have full control over waste lands.

Governor Young forwarded the Act to the Duke of Newcastle on November 10th, 1853,¹⁾ and on January 31st, 1854, he sent a despatch informing the Colonial Secretary that great opposition had since arisen to the provision for a nominated Upper House. A fortnight later, February 14th,²⁾ he sent a memorial to the Queen with 5,000 signatures stating that the representative members of the Legislative Council had been induced to change their wish for an elected Upper House owing to the interpretation of Pakington's despatch with regard to the Canadian Legislature, and had been misled by the Government's assertion that no other system would be sanctioned by the Home Government. As the Victorian Legislative Council had acted on Newcastle's despatch and decided on an elected Upper House, they wished to have the South Australian Constitution Bill amended to provide for an Upper House elected for a term of years.

When the South Australian Legislative Council met in 1854, the elected members succeeded in passing a resolution³⁾ on September 22nd, stating that a nominated Upper House was contrary to the wishes of the majority of the elected members as well as of the colonists in general and that any amendment of the Constitution establishing two chambers, one of which consisted of nominees of the Crown, would not meet with the support of the people of South Australia.

On September 28th, the following resolution was passed -⁴⁾
 "That any legislation by the present Council which involves a reconsideration of the fundamental principles of constitutional government contained in the Parliament Act is inexpedient because

1. Parl. Pap. 1854. XLIV. 1827. pp. 131-151.
 2. Ibid. pp. 153-158.
 3. Parl. Pap. 1854-5. XXXVIII. 1902. p. 18.
 4. Ibid. p. 20.

it is desirable that a reconsideration of the Parliament Act should not be undertaken until after a fresh election, and the time is now too short prior to the meeting of the Imperial Parliament to admit of such fresh election and reconsideration of the constitution; and that an address be presented to His Excellency, requesting him to forward to Her Majesty's principal Secretary of State for the Colonies a copy of the proceedings of this Council on 22nd. 27th. and 28th. of September."

This rather disturbed the Governor who, on October 10th,¹⁾ complained to the Council that its decision was likely to put Her Majesty's advisers in a difficult position. To this the Council replied that Her Majesty's advisers themselves would have to solve the difficulty which had arisen from their interpretation of the despatches regarding the amendment of the constitution - an interpretation which had induced some members to agree to a compromise rather than run the risk that the rejection altogether of the bill providing for two elective Houses might leave the colony with its existing Legislature and without the control of the Land Fund.

Governor Young succeeded Denison as Lieutenant-Governor of Tasmania on the latter's appointment to New South Wales and the new Governor, Macdonnell, received a despatch from Lord John Russell, dated May 4th, 1855,²⁾ announcing the Home Government's intention not to proceed with the South Australian Parliament Bill owing to the opposition which had arisen to it in South Australia. He advised the Governor to discuss with his Executive Council the expediency of a dissolution in order to place the question before the electors. In the meantime, the Waste Lands Act had been repealed but would not take effect in South

1. Parl. Pap. 1854-5. XXXVIII. 1902. p. 21.

2. Parl. Pap. 1856. XLIII. 2135. p. 108.

Australia until the constitution had been finally settled. He advised the omission of the clause to limit the Crown's power of disallowance as such a clause would require the authority of Parliament. He sent a copy of the Tasmanian constitution for the guidance of South Australia because this colony had not exceeded its powers and its measure had received the royal assent after lying before Parliament for 30 days, whereas the legislatures of New South Wales and Victoria, having exceeded their powers, had had to wait the result of the more lengthy process of having their bills passed by Parliament.

Accordingly, on August 15th, the Legislative Council was dissolved and Macdonnell, in a despatch to Russell on August 22nd,¹⁾ expressed his fears that the democratic spirit of the colony would produce a constitution to which it would be perilous to entrust the future destinies of the colony as there was a strong party in favour of making both houses elective and introducing almost universal suffrage. But as there was also a party in favour of one house only, and that one elected, he had, after consulting the Executive Council, outlined a new constitution bill on August 17th. This scheme proposed a single house of 36 elected members and 4 heads of departments, but in order to introduce a conservative element to check overdemocratic tendencies, 12 of the members were to be elected by a highly qualified constituency. There was to be no qualification for members of the Assembly and no Civil List except to secure the salaries of the judges and the four government officers who had seats in the Assembly. Power would be reserved to amend this constitution and resolve the single chamber into two. If this scheme were not acceptable, the Governor proposed

1. Parl. Pap. 1856, XLIII. 2135. pp. 52-62.

introducing a bill for a constitution similar to that of Tasmania. Mr. Labouchere's comment on this scheme was that it rested with the Legislature to adopt or reject a constitution inconsistent with the establishment of Responsible Government but Her Majesty's Government saw no reason why South Australia should remain exempted from the operation of a system conceded to the neighbouring provinces of New South Wales, Victoria and Tasmania¹⁾ (December 20th, 1855).

However, the results of the elections showed the Governor what the country thought and on opening the Legislative Council on November 1st, he announced that a bill would be introduced to provide for two elective houses. This Act "to establish a constitution for South Australia and to grant a Civil List to Her Majesty" was passed on January 2nd, 1856, and sent to England²⁾ for approval. Labouchere's despatch of July 19th, 1856, announced that it had received the royal assent and that the control of the Land Fund would be effective as soon as the new Constitution Act was proclaimed. By this Act,³⁾ the suffrage for the Legislative Council was conferred on freeholders of the value of £50, leaseholders of the annual value of £20 and householders of £25 annual value, while universal manhood suffrage was adopted for the House of Assembly. The Council was to consist of 18 members, who were to be over 30 years of age and who were elected for 12 years, retiring in rotation every 4 years. The duration of the Assembly was to be three years and all appropriation and taxation bills were to originate in the Assembly.

(d) Tasmania.

Constitutional development in Tasmania was retarded by the

1. Parl. Pap. 1856. XLIII. 2135. p. 109.
 2. Ibid. pp. 109-110.
 3. Ibid. pp. 69-74.

continuance of the convict system and the Home Government refused until the middle of the century to consider the grant of any degree of representation. There had been periods of agitation for representative government but they met with no sympathy from the Colonial Office even though some of the Governors, such as Franklin, thought it might be possible to have partially representative institutions in a convict colony. Glenelg, in a despatch to Franklin (January 3rd. 1839) said that the Home Government regarded the island as so suitable for the purposes of a convict settlement that they considered making it the only settlement for the reception of convicts in the Empire. After the cessation of transportation to New South Wales, Tasmania received from 3,000 to 4,000 convicts yearly and the question of financing the system occupied more attention than did constitutional reform. Agitation for the abolition of the system was active and its progress was watched with interest by the other colonies, especially after the gold discoveries. Convicts whose sentences had expired found their way in large numbers to the mainland and those who were termed "exiles" were free to go anywhere they liked as long as they did not return to Great Britain. Such immigrants were not welcome to the mainland colonies and just as the constitutional struggle in New South Wales was watched with sympathy by the other colonies, so the agitation in Tasmania against the convict system was supported by the mainland colonies. While the Tasmanians were demanding either the abolition of the convict system or an increased grant from the Imperial Government for the expenses of this system while it was retained, they could not very well ask for constitutional reform at the same time. However, the gold discoveries put an end to the system. The British Government realised the folly of giving offenders free passages to Tasmania whence they could so easily reach the gold fields. The

Government's intention to end the system was announced in a despatch from Pakington to Governor Denison on December 14th, 1852, and was repeated in his circular despatch of December 15th. On February 22nd, 1853, Newcastle definitely announced that no more convict ships would be sent to Tasmania.

At this time, the Legislative Council consisted of 16 elected and 8 nominated members, as provided for by the Australian Colonies Government Act of 1850,¹⁾ but when it was known that the three mainland colonies were revising their constitutions, the press began to urge Denison to obtain permission from the Home Government

for the Tasmanian legislature to do likewise.²⁾ Transportation having ceased, there was now no reason for withholding this concession so on August 25th, 1853,³⁾ Denison addressed a despatch to Newcastle expressing the hope that "a distinction which must necessarily prove invidious, may no longer be made between this colony and those on the mainland of Australia." To this he received a reply dated January 30th, 1854,⁴⁾ in which Newcastle acknowledged the justness of the request. He pointed out that it would be necessary for the colony to undertake the financial responsibilities of a Civil List and the maintenance of civil and military expenditure as the other colonies had done. When the Legislative Council and the community notified their willingness to do so, the colony would be placed on the same footing as the other three.

Accordingly, on August 19th, 1853, a Select Committee of the Legislative Council was appointed to prepare a draft constitution

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1. 13 & 14 Victoria. C. 59. Parl.Pap. 1852. XXXIV. 1534. pp. 87-89 and pp. 166-179.
 2. Ibid. pp. 92-93.
 3. Parl. Pap. 1854. XLIV. 1827. p. 162.
 4. Ibid. pp. 166-167.

and, on September 28th, it presented its report, the resolutions of which were adopted by the Council on October 4th.¹⁾ It proposed to set up two houses both elected but on a different franchise. The revenues of the colony were to be consolidated and bills for taxation and appropriation were to originate in the Lower House. The committee felt that an elected Upper House was unusual and gave the following reasons for proposing it -

1. It was impossible to establish an analogy between the House of Lords and the Upper House of a Colonial Legislature.
2. Even if possible, it would be wrong in principle to vest in a privileged and irresponsible class, those powers which were inherent in the people and with the exercise of which the people might be safely entrusted.
3. Agreeing in the necessity for a safe, revising, deliberative and conservative element between the Lower House and Her Majesty's representative, they felt that this object could be attained by the provision that members of the Upper House should be elected on a freehold suffrage of £25 per annum and for a longer period than the members of the Lower House.
4. In Canada, a nominated Upper House had failed to accomplish what had been intended and had produced discontent leading to rebellion, and, on several occasions, to the stopping of supplies.
5. The Committee was opposed to the nominee system, believing that it was bad in principle, would be bad in practice and would endanger the liberties of the people by vesting great power in a small and irresponsible body.

Owing to lack of time, the Committee had not drawn up a draft bill. On October 6th, the Legislative Council was prorogued and did not meet again until April 18th, 1854. During the interval

1. Parl. Pap. 1854. XLIV. 1827. pp. 162-164.

the constitutional question was much discussed and public opinion generally expressed itself as being in favour of an Upper House possessing the confidence of the people as fully as did the Lower House. Denison himself was in favour of an elected Upper House and discussed it fully in a despatch to Newcastle (February 14th, 1854).¹⁾ In reply, he received from Newcastle's successor, Sir George Grey, (August 3rd, 1854),²⁾ the assurance that "the Home Government are of the opinion that, provided the Legislative Council is so constituted as to possess the respect and confidence of the community, and at the same time less directly liable than the Assembly to popular impulse, and capable of acting as a salutary check against hasty legislation, the particular mode of constitution is not a matter of primary importance, and they do not feel it necessary to insist on its being nominated by the Crown." At the same time, he drew attention to the fact that the legislatures of the three mainland colonies had, in drawing up their constitution bills, exceeded their powers, thereby causing delay by necessitating an Imperial Act to make them valid. He advised the Governor that, to avoid this, "the provisions of the Act should be restricted within the ample powers legally possessed by the existing legislature of the colony."

Fortunately this despatch was received in time and the Council removed certain clauses from its Constitution Bill as a result, for here, too, an attempt had been made to distinguish between local and imperial matters. This bill had been drawn up by a Select Committee appointed on April 25th, 1854. On September 29th, they presented their report and the draft bill to the Council. The recommendations differed little from those of the previous year.

1. Parl. Pap. 1854-5. XXXVIII. 1902. pp. 1-5.
 2. Ibid. p. 20.

On October 31st, "A Bill to establish a Parliament for Van Diemen's Land and to grant a Civil List to Her Majesty", was passed by the Legislative Council. It received the Governor's assent on November 1st, and was sent to England for the Queen's approval.¹⁾ On May 4th, 1855,²⁾ Lord John Russell forwarded the Act to Governor Young, (Denison's successor) stating that as the Act was passed in accordance with the provisions of existing Acts of Parliament, he had had no difficulty on legal grounds in asking Her Majesty thus to signify her assent to it, as soon as it had lain thirty days before Parliament. Compensation being, by this act, secured to existing officers who might be deprived of appointments through the operation of responsible government, there could be no obstacle to the introduction of that system as soon as the newly constituted Parliament might think fit. The repeal of the Waste Lands Act of 1842 having taken place, Tasmania would have full control over its waste lands.

The chief provisions of the new Act were -

1. There was to be one Legislative Council and one Legislative Assembly which, with the Governor, would be called the Parliament of Van Diemen's Land.
2. The Legislative Council was to consist of 15 elected members, the right to vote for them being given to every person having a freehold estate worth £50 per annum and to barristers, graduates of British Universities, medical practitioners, ministers of religion and officers (retired or active) of Her Majesty's forces residing in the district.
3. Members of the Legislative Council were to be at least 30 years of age and to be natural-born or naturalized subjects.

1. Parl. Pap. 1854-5. XXXVIII. 1902. pp. 13-18.
 2. Parl. Pap. 1856. XLIII. 2135. p. 154.

4. Five members of the Legislative Council were to retire in rotation every three years.
5. The House of Assembly was to consist of 30 elected members, who were to be ~~natural~~ born or naturalised subjects. Judges and ministers of religion were not eligible for membership.
6. The duration of the House of Assembly was to be 5 years unless dissolved sooner by the Governor.
7. The qualifications for electors for the House of Assembly were a £10 household, freehold of the clear value of £100; a pasture licence of £10 for 3 years, or £100 per annum salary.
8. Convicts were prohibited from voting or being elected until they had received a pardon or undergone sentence.
9. A Civil List of £15,300 was payable out of the Consolidated Revenue Fund to provide for the salaries of the Governor, the Judges and a few officials, for public worship and for compensating officials who had to retire as a result of the introduction of responsible government.
10. All bills appropriating any part of the revenue, or imposing any taxation were to originate in the House of Assembly.

Provision was also made for future amendment of the constitution. The first Parliament met on December 3rd, 1856, but previous to this, the old Legislative Council had petitioned the Queen to have the name of the colony changed because of its unhappy associations with an unfortunate policy pursued by the British Government, in the case of this colony for 50 years. The petition was granted and Molesworth on August 4th, 1855, forwarded an Order - in - Council to this effect. Since January 1st, 1856, the colony has¹⁾ been known as Tasmania.

1. Parl. Pap. 1856. XLIII. 2135. pp. 155-156.

(e) Queensland.

By instructions dated May 22nd, 1839, Governor Gipps was to divide New South Wales into three districts - Northern, Central and Southern - for, as Lord John Russell explained in his despatch of May 31st, the rapid extension of settlement would necessitate fresh arrangements for the administration of the colony. In the meantime, the Central and Southern Districts were to be distinct for the purposes of carrying out the Government's land policy but no action was to be taken with regard to the Northern District for the time being.¹⁾

On June 20th, 1840, Lord John Russell introduced a Bill into the House of Commons "to make further provision for the Government of New South Wales and Van Diemen's Land." Two of its clauses stated that as New South Wales was of great extent and it might be fit that its territories should be divided into separate colonies, it would be lawful for Her Majesty by letters patent, to define the limits of the colony of New South Wales, and to erect into a separate colony or colonies any territories which might be comprised within its boundaries; provided that no part of the 19 counties proclaimed in 1829 should be detached from New South Wales. In such colony or colonies, any number of persons, not less than seven, including the Governor or Lieutenant-Governor, might be authorised by Her Majesty to constitute a Legislative Council of nominated members. This Bill, which might have brought about the establishment of Queensland much sooner than it did occur, was withdrawn at its second reading (July 13th) and another Bill was brought forward for the purpose of renewing the New South Wales Act

1. Parl. Pap. 1840. XXXIII. 559. pp. 1-4. Sweetman; Australian constitutional Development, p. 162.

(9 George IV., C. 83) for another year but it also contained a clause providing for the division of New South Wales into three districts. The likelihood of losing territory caused concern amongst the people of New South Wales and Edward Macarthur interviewed Sir Robert Peel and Edward Goulburn, urging them to try to have this section withdrawn. Peel's efforts were successful and the clause was replaced by another providing for the separation of any islands connected with New South Wales.¹⁾ The insertion in a continuance Bill of clauses to divide the territory was strongly resented in New South Wales and public meetings expressed appreciation of Macarthur's action. When Gipps was instructed to divide the colony into districts for the purpose of land administration, fresh protests were made. It was felt that New South Wales was to be reduced to the size of the 19 counties and that she would consequently be deprived of many valuable resources.²⁾ When the instructions were put before the Legislative Council on December 10th., 1840, the Bishop of Australia moved a protest and received the support of the whole of the Council. James Macarthur attributed the instructions to the influence of Wakefield's supporters in England. A petition from the Council protested against the disregard of natural boundaries and asserted that the northern boundary should be the 28th. parallel of the South Latitude.³⁾ Two petitions were also sent by the colonists. This danger had united both the Exclusionist and the Emancipist parties and Russell on August 21st., 1841, notified Gipps that the dismemberment scheme was withdrawn.⁴⁾

When the Government Act of 1842 was passed, clauses provided

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1. i.e. New Zealand.
 2. Macarthur (James): Colonial Policy of 1840 and 1841. p. 24.
 3. Ibid. pp. 11 et seqq.
 4. Sweetman: op. cit. pp. 167-170.

for the establishment of new colonies but New South Wales was not to lose any territory south of the 26th. parallel.

Such colonies were to have a Legislative Council of not less than seven persons, including the Governor or Lieutenant-Governor. However the separation of Queensland was still some distance off. During his short term as Secretary of State for the Colonies, Gladstone decided to constitute the colony of Northern Australia, lying north of the 26th. parallel. It was to be a penal settlement, having a Lieutenant-Governor with an Executive and a Legislative Council consisting of three officials besides the Lieutenant-Governor and three Justices of the Peace. The seat of government was to be Port Curtis and on May 8th., 1846, Colonel Barney was appointed Lieutenant*Governor. But Grey soon followed Gladstone and on November 15th, 1846, he notified Governor Fitzroy that the Home Government did not intend to proceed with Gladstone's scheme so¹⁾ Barney and his staff were recalled.

Meanwhile the population of the northern districts was growing. Explorers were making known fresh grazing areas and the squatters followed close on their steps. Gladstone's abortive scheme gave impulse to the separation movement which received energetic support from Dr. Lang. The Australian Colonies Government Act of 1850, provided in section 34 that it should be lawful for Her Majesty from time to time, upon the petition of the inhabitant householders of any territories lying north of the 30th. degree of South Latitude, to detach such territories from the colony of New South Wales and erect them into a separate colony or colonies. Port Phillip now became a self-governing colony and the northern settlers wanted to acquire the same status. Although some of them, particularly the squatters, were in favour of transportation while others

1. See Hogan: The Gladstone Colony.

opposed it, yet all were united on the question of separation. Public meetings were held in Brisbane on January 8th, 1851, and petitions to the Queen were drawn up.¹⁾ But Fitzroy and his Executive Council were opposed and in March, 1851, protested that, as the northern districts had been developed by New South Wales labour and capital, it would be unjust to separate them and to erect them into a separate colony would be neither expedient nor advantageous to the northern districts.²⁾

On December 27th, 1851,³⁾ Grey replied that, although the northerners were entitled to ask for separation, the time was not ripe for it and urged them to accept their representation in the New South Wales Legislative Council for the time being. On December 9th, 1852, Pakington announced that no more convicts would be sent to the southern and eastern colonies, including the northern districts of New South Wales, but the Government saw no sufficient reason for erecting these northern districts into a separate colony.⁴⁾

Again on May 4th, 1853, in reply to further petitions, he couched his refusal in the following words - "Her Majesty was not advised to issue any instructions on the subject to which it relates."⁵⁾ But these refusals could not check the movement and when, on August 22nd. 1853, four members of the New South Wales Legislature petitioned the Colonial Office, they stated that six petitions to the same effect had already been sent to Her Majesty. Some of the reasons for separation given in this last petition were -

1. Lack of common feeling between the people of the northern and southern parts of New South Wales.

1. Parl. Pap. 1851. XLV. (1418) pp. 56-68.
 2. Parl. Pap. 1852. XLI. (1517) pp. 87-89.
 3. Ibid. pp. 130-132.
 4. Parl. Pap. 1852-3. LXXXII. (1601). p. 119.
 5. Parl. Pap. 1852-3. LXXXII. (1677). p. 144.

2. The finances of the Northern Districts were quite sufficient to support a separate government.
3. The distance between Brisbane and Sydney (500 miles) prevented regular and adequate representation in the Legislative Council, so that such representation was "a mockery and a delusion."
4. Her Majesty was empowered under section 34 of 13 & 14 Victoria,¹⁾
c. 59. to grant the request.

Another petition signed by over a thousand residents of the Moreton Bay District was forwarded by Fitzroy to Newcastle on February 28th, 1854. Fitzroy stated that he was still opposed to the separation of this district from New South Wales.²⁾

When Lord John Russell became Secretary for the Colonies, he asked Governor Denison for a report on the matter (May 23rd. 1855).³⁾ Denison's report (October 18th) was unfavourable. He was opposed to separation because the petitions had been supported mainly by the squatters and a few commercial men near Brisbane, the population was small (19,000), and comparatively few squatters had notified their intention to exercise their right of pre-emption over the land they were occupying. He added vaguely that at the present separation would be both inexpedient and unwise.⁴⁾

Nevertheless on July 21st, 1856⁵⁾ Labouchere informed Denison that the Home Government had decided to grant a separate government. The population of the Northern Districts was increasing and it was better to give them self-government at once than to allow the discontent to grow stronger with the increase of the population. Moreover, the Home Government felt bound to do so as section 46 of the New South Wales Constitution Act of

1. Parl. Pap. 1854. XLIV. (1827) pp. 8-10.
 2. Ibid. pp. 55-57.
 3. Parl. Pap. 1856. XLIII. (2135) p. 14.
 4. Ibid. pp. 6-7.
 5. Ibid. pp. 20-21.

1855, empowered Her Majesty to alter the boundary of New South Wales as she deemed fit.

Once this decision was reached, the only question of importance to be settled was the boundary and this caused some delay. The New South Wales Government did not wish to forego the rich areas around the Richmond and Clarence Rivers, nor did the inhabitants of those districts wish to belong to the new colony, so by drawing the boundary at about the 29th parallel, New South Wales was enabled to retain this district.

But delays occurred and the impatient residents continued to send petitions to the Secretary for the Colonies. During 1858, petitions for separation came not only from Brisbane, Ipswich and the representatives of the northern districts in the Legislative Council but also from the Grafton and Clarence River Districts. The Government's measures for separation were prepared too late in the session for consideration by Parliament but Lytton assured Denison¹⁾ that the whole question was receiving serious consideration.

On June 6th, 1859, an Order-in-Council²⁾ established the new colony of Queensland which was duly proclaimed by Denison on December 1st, 1859,³⁾ Denison was authorised to divide the new colony into electoral districts, nominate a Legislative Council and issue writs for the election of a Legislative Assembly. Fifteen members were nominated to the Council and twenty-six were to be elected to the Assembly by the sixteen electoral districts. The constitution was practically the same as that of New South Wales, being based on the same Act. Sir George Bowen was appointed Governor and until Parliament was elected, he administered the Government with an Executive Council of three. On May 22nd, the

1. Parl. Pap. 1859. XVII. {2505} pp. 3-12.
 2. Parl. Pap. 1861. XL. {2890} p. 2.
 3. Ibid. p.1.

first Parliament met.

Queensland was thus the only Australian colony which did not need a special Act of the Imperial Parliament for its establishment, letters patent being sufficient, and it received the full rights of self-government from the beginning of its separate existence.

(f) Western Australia.

Western Australia was the last of all the colonies to obtain responsible government. This was due mainly to the fact that a small population was scattered over a wide area and progress was consequently slow. Then in an attempt to promote the development of the colony, the colonists resorted to the introduction of convicts and it was not the policy of the British Government to grant responsible government to penal colonies, even if they could bear the attendant expenditure. But the colonists had been anxious to have a full share in the government of their country almost from the foundation of the first settlement.

The Act (10 George IV, C. XXII), providing for the government of His Majesty's settlement of Western Australia on the west coast of Australia, authorised a Legislative Council of three or more persons and on June 18th, 1829, Governor Stirling duly proclaimed that this Council would consist of himself and four nominated officials.¹⁾ But it was not until February, 1832, that in accordance with an Order in Council of November 1st, 1830,²⁾ that the Legislative Council and Executive Council, thus provided for, came into being. About the middle of 1832, a public meeting was held in Perth at which two memorials were drawn up expressing dissatisfaction with the method of government. In the first one,

1. Battye: History of Western Australia, pp. 456-458.
 2. Parl. Pap. 1834. XLIV. 323. pp. 16-17.

presented to Stirling, landowners, merchants and other free settlers disapproved of the imposition of taxation by a body in which they were not represented. In the second, which was addressed to Goderich, the Colonial Secretary, and forwarded to him on September 20th, 1832, the agricultural and mercantile interests requested that they should have representatives in the Legislative Council.¹⁾

Stirling was in favour of the election or nomination of non-official members and on February 5th, 1833, he advised Goderich that three non-official nominees should be chosen from among the colonists. Goderich, on March 8th, 1833, authorised Stirling who was then in England, to add four such members.²⁾

This did not satisfy the colonists for long and on February 16th, 1835, a public meeting in Perth petitioned the Colonial Secretary for representation.³⁾ Meanwhile Stirling informed the Council on March 11th, 1836, that he had been instructed not to appoint the four non-official members until further instructions arrived.⁴⁾ However, on March 7th, 1837, Glenelg confirmed Goderich's concession⁵⁾ but added that he did not consider the colony ready for any further concessions.⁶⁾ This form of government lasted with slight alterations from 1833 until 1870 when advantage was taken of the provisions of the Australian Colonies Government Act of 1850 which applied to Western Australia.

The colony now entered on a long period of almost complete stagnation. The export trade was very small and far exceeded by

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1. Sweetman: op.cit. p. 338 and pp. 419-420.
 2. Ibid. p. 339 and pp. 420-421.
 3. Parl. Pap. 1837-8. XL. 685. pp. 13-16.
 4. Sweetman: op. cit. p. 339.
 5. Effect was not given to this until the Order in Council of August 1st, 1838.
 6. Parl. Pap. 1837-8. XL. 685. pp. 16-19 and Sweetman: op.cit. pp. 422-423.

the imports. Practically no new areas were opened up, immigration ceased and the population began to drift to the other colonies. In spite of efforts to promote exports, the progress was negligible. In despair, the colonists turned to the convict system. They had proudly kept aloof from it before but seeing how the eastern colonies had benefited by the supply of cheap labour and government expenditure, they began to see in it some hope for improving their material condition. A modified form of the system was in operation from 1842 to 1850 during which period a large number of juvenile offenders from Parkhurst Prison were transported to the colony by the British Government and assigned as servants to the settlers. Judging from the official reports, this scheme worked satisfactorily. After 1850, no more were sent except with tickets-of-leave.¹⁾ In April, 1844, the members of the York (W.A.) Agricultural Society had considered the question but they got no support from the Governor or other colonists while the newspapers expressed themselves definitely against the introduction of convicts. A memorial drawn up by a public meeting in Perth in April, 1845, even requested the Secretary for the Colonies to prohibit ex-convicts from Tasmania from entering Western Australia, a request which the Home Government bluntly refused. (Gladstone to Clarke, January 1st, 1846).²⁾

However, the advocates of the introduction of convicts were gaining support and public opinion was slowly coming to consider its expediency, although on July 24th, 1845, the Legislative Council unanimously voted against it. "No dearth of labour can be so extreme as to call for, or to warrant our having recourse to such a hazardous experiment for a supply."³⁾

On January 2nd, 1847,⁴⁾ Governor Clarke forwarded to Glenelg

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1. Parl. Pap. 1850. XLV. (1285). p. 224.
 2. Battye: op.cit. pp. 196-199.
 3. Ibid. p. 199.
 4. Ibid. p. 200.

a memorial signed by landowners, merchants and other inhabitants drawing attention to the difficulties of the colony and pointing out that these had been added to when the Home Government had increased the minimum price of land to £1 per acre, thus stopping sales and eliminating the land fund which had been used for the introduction of labour. If it were not possible for the Government to reduce the price to its former level or devise some other scheme for the introduction of labour and capital, it was hoped that the colony might be turned into a penal colony on an extensive scale. It was pointed out that good roads through settled districts were necessary but expensive and only perhaps to be accomplished by convict labour. Other public works would be constructed by the same means and the increased population would afford a market for agricultural products. The scheme gained the support of the press and the inhabitants although strongly opposed by the Governor.

On March 3rd. 1849,¹⁾ Governor Fitzgerald forwarded another petition and Grey, who had worked out a new scheme of convict discipline, eagerly took this opportunity to put it into practice.²⁾ An Order-in-Council of May 1st, 1849 proclaimed Western Australia a penal settlement and at the beginning of June 1850, the first³⁾ convict ship arrived at Fremantle.

In 1849, the report of the Committee of the Privy Council on proposed changes in the government of the Australian colonies recommended that, when the people of Western Australia were able and willing to pay for a government similar to that of New South Wales, it should be granted to them and the Act of 1850 contained a section (Number IX) providing for this. When not less than one-third of the householders of Western Australia petitioned for it, they should be granted a Legislative Council consisting of nominees

1. Parl. Pap. 1850. XLV. (1153) p. 108.
 2. Ibid. p. 106.
 3. Sweetman: op.cit. pp. 423-424.

of the Crown and representatives of the householders in the ratio of one to two, provided that the revenues of the colony were sufficient to bear all the expenses of Civil Government which had formerly been defrayed by Parliamentary grants.

But the time had not yet come for such a change and even the momentous despatches of ~~F~~akington (1852) and Newcastle (1853) caused no move. But on May 12th, 1865, Cardwell informed Governor Hampton that transportation was to cease. The Government would send two ships a year in 1865, 1866 and 1867 after which no more would be sent. This scheme was adhered to and the last ship arrived at Fremantle on January 10th, 1868.¹⁾ The system had been of great material benefit to Western Australia as useful public works had been carried out and free immigrants brought into the colony but it was felt that the system had now served its purpose. It was strongly opposed by the other colonies and it was costly to the British Government.²⁾

Even before this announcement was made, agitation for representative government was revived. A public meeting in Perth on February 21st, 1865, petitioned the Legislative Council for representation. It was the wish of the inhabitants, expressed in further petitions, that an elected element should be introduced in accordance with the Australian Colonies Government Act of 1850,³⁾ but the members of the Council rejected the petitions for fear that they would lose political power and that a demand for universal suffrage and responsible government would follow. However, they agreed to the nomination of two more non-official members. It was not until July 9th, 1867, that Buckingham sent a despatch to

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1. Battye: op.cit. p. 250. Sweetman: op.cit., p. 425.
 2. Parl. Pap. 1864. XL (3264); 1864, XLI (3357); 1865. XXXVII (3424).
 3. Parl. Pap. 1867. XLVIII. 548. pp. 3-15.

Hampton agreeing to thus making the official and non-official members equal in number and to limiting their term of office to three years.¹⁾ Governor Hampton announced that he would nominate persons elected by the colonists. Five of six electoral districts instituted for this purpose elected members who were duly nominated to the Council by the Governor but the sixth refused to do so. This procedure was approved by the Secretary of State for the Colonies (May 4th, 1868) and was to be followed on future occasions.²⁾

In September, 1869, Weld became governor and as he was in favour of responsible government, the movement received fresh impetus.³⁾ In March 1870, he announced that he had received a despatch from Granville who stated that he saw no reason why the colony should not now adopt the form of government provided in the Act of 1850 if the colonists wished it. Accordingly a bill was prepared and passed by the Legislative Council on June 1st, 1870. By it, the Council was to consist of 18 members, 12 of whom were elected, while three were officials and three nominated by the Governor. The ratio between the nominated and the elected members was to be kept at one to two. Every man over 21 years of age was entitled to vote provided he owned property worth £100, was a householder paying £10 a year or held a pasture licence. Members had to possess property of the annual value of £100 or the capital value of £2,000 and membership was for five years. The Governor ceased to be a member of the Legislature but was given the right to transmit drafts of Bills to be considered by it but he had no monopoly of initiating Bills. The Council had no control over Crown lands and bills on certain other matters had to receive the consent of the Home Government. The new Legislative Council met on December 5th, 1870.⁴⁾

1. Parl. Pap. 1867. XLVIII. 548. p. 16.

2. Sweetman: op.cit. p. 424.

3. Ibid. pp. 425-426.

4. Ibid. pp. 342-343 and Battye: op.cit. pp. 281-284.

From the first, the members showed that they were not going to be dominated by the official members and the division between the two sections was particularly marked during the debates on the tariff question in 1871 which gave rise to talk of responsible government. In June, 1874, a public meeting at Bunbury agreed that responsible government would be in the interests of the colony. Following a resolution of the Legislative Council, the Governor prepared a bill to establish a constitution for Western Australia and to grant a Civil List to Her Majesty. This was put before the Council on August 3rd, 1874. The measure provided for a nominated Upper House and an elected Lower House, but there was such division of opinion on the question of the Upper House that the Governor dissolved the Council. The elections showed that the people strongly favoured responsible government, but, owing to the approaching departure of the Governor, the Council delayed consideration of the matter until his successor, Robinson, arrived.

One of the first actions of the New Governor was to read to the Council a despatch from Carnarvon (November 18th, 1874) censuring Weld for being too hasty to meet the wishes of the colonists and pointing out that the Home Government was not prepared to recommend responsible government, as the population was too small and many were convicts while the colony was large and the expense which the establishment of responsible government would necessitate¹⁾ would be heavy. As a result, the agitation died down for a time.

Meanwhile, the colony was making good progress and the population was increasing. In 1878 and again in 1880, attempts were made to revive the question of constitutional change and in 1882, the Legislative Council agreed to ask the Governor to ascertain from the Secretary for the Colonies on what terms

1. Battye: op.cit. pp. 285-295.

self-government would be granted, as it was felt that the colony¹⁾ was now able to meet the expense as required by the 1850 Act.

On July 23rd, 1883, Derby replied to Broome. He pointed out that as the population was mostly gathered in the south, they would have great difficulty in administering the northern part of the colony which would probably be separated if responsible government were granted. He ordered a separate account to be kept of the northern land revenue and asked for a full statement of the condition

of the whole colony.²⁾ The policy of the Colonial Office had always been regarded as a hindrance to the progress of the colony and this suggestion of dismemberment stimulated interest in the constitutional question. Broome suggested to the Colonial Secretary (April 9th, 1884) that the Home Government should announce that

responsible government would be granted if the 1885 elections showed a decided desire for it.³⁾ But Derby (July 14th, 1884)⁴⁾ would not agree though he said that the Government would examine the details of the changes that would be necessary if responsible government were introduced, provided the colonists would agree to the separation of the northern part of the colony.

On November 18th, 1886,⁵⁾ after a debate in the Legislative Council on the subject, Broome informed Stanhope that the advocates of responsible government appeared to be gaining ground but Stanhope's successor, Holland, replied (February 4th, 1887)⁶⁾ that "if responsible government were introduced, it would not be practicable for Her Majesty's Government to surrender to a Parliament representing a small population, principally resident in the southern districts, the control of all the vast territory now included in Western Australia."

1. Parl. Pap. 1889. LV. (c. 5743) pp. 1-2.

2. Ibid. pp. 2-3.

3. Ibid. pp. 5-7.

4. Ibid. p. 9.

5. Ibid. p. 11.

6. Ibid. pp. 11-12.

One would think that Earl Grey had returned to the Colonial Office. Dr. Battye comments aptly on this. "How that 'vast territory' could be more satisfactorily controlled by one man removed by thousands of miles from the spot, and absolutely ignorant of local conditions and requirements, he did not attempt to explain."¹⁾

On June 24th, 1887, a petition from a public meeting in Perth was presented to the Legislative Council asking for responsible government and on July 6th the following motion was carried, "That in the opinion of this Council the time has arrived when the Executive should be made responsible to the Legislature of the colony, and that it is further the opinion of this Council that Western Australia should remain one and undivided under the new Constitution." This resolution was forwarded to Holland on July 12th, 1887, and Broome strongly supported it.²⁾ In August, Holland cabled to the effect that the Government was prepared to accept the resolution with special reservations concerning the protection of natives and the government of the north.³⁾ In September, he cabled again that no legislation should be attempted until the views of the Home Government were known.⁴⁾ This caused some delay but Holland's despatch to Broome (December 12th, 1887)⁵⁾ replying to the resolution of July was received in January, 1888. Holland agreed that self government could be granted to the colonists if they were confined within reasonable geographical limits and proposed dividing the colony into two parts by the parallel of 26° south. Another despatch, dated January 3rd, 1888,⁶⁾ and received in February, suggested that the Legislature should consist of one chamber and that a second should be

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1. Battye: op.cit. p. 380.
 2. Parl. Pap. 1889. LV. (c.5743). pp. 12-17.
 3. Ibid. p. 20.
 4. Ibid. p. 22.
 5. Ibid. pp. 23-24.
 6. Ibid. pp. 25-26.

created when the population reached 80,000, but if two were considered necessary from the start, then the Upper House should be nominated at first. These proposals were not acceptable to Broome or the Council. The Governor proceeded to draft a bill, a work in which he was hindered by the voluminous correspondence of the Colonial Secretary who had now become Lord Knutsford and who wished the legislature to consist of only one house. Broome insisted on two and, when his draft was received by the Colonial Secretary, it was altered to make the Upper House a nominated chamber and to provide for the division of the colony into two if such a course was
1)
considered necessary.

The Bill was introduced into the Legislative Council on October 19th, 1888, but owing to the differences of opinion on the nature
2)
of the Upper House, the Governor gave a dissolution. The elections of 1889 once more showed that the people decidedly wanted responsible government so, on March 13th, the bill was again introduced. The debates centred in the questions of land control, electoral qualifications and the Civil List. Amendments vested the colony with the control of all lands south of the Tropic of Capricorn, gave the vote to lodgers occupying rooms worth £10 a year, reduced the Civil List by £1,900 and made the duration of the Assembly four years instead of five. The bill passed on April 5th, and the Colonial Secretary was informed by cable. On the 6th, he cabled back that the only amendments he could agree to were those concerning the franchise and the duration of the Assembly. The Council decided to insist on its amendments but when the Colonial Secretary compromised by making the twenty-sixth parallel the dividing line for land control
3)
the Council gave way and the bill was finally passed on April 26th.

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1. Parl. Pap. 1889. LV. (c. 5743). pp. 34-52 and 58-68.
 2. Ibid. pp. 71-73.
 3. Ibid. pp. 75-81.

It was sent to London with an Enabling Bill but the latter was shelved by the House of Commons and Knutsford cabled the Governor that there was no prospect of having the bill passed in the 1889 session. Western Australia invoked and obtained the help of the other colonies to have the bill considered but their combined efforts were unsuccessful. The Legislative Council then chose Broome and two members to go to London to push forward the passing of the bill and also chose two other members to visit the other colonies to stimulate their interest. This second mission was disallowed by the Secretary for the Colonies, an action which¹⁾ caused great indignation. Dr. Battye's words at this stage are of interest. He writes - "The despatch of the delegation was without doubt a very wise move on the part of the colony. Without the active interest and earnest advocacy of its members it is more than likely the Western Australia would not have received justice even during the session of 1890. The Imperial Government had not at that time emerged from the narrow and short-sighted view of colonial affairs which it had always been the custom of British statesmen to take. In the minds of some, the colonies seem to have been regarded as useless excrescences, except in so far as they could be made the target for fancy and utterly impracticable theories or serve as a dumping ground for those types whose absence from England would make England sweeter. Many of the opponents of the Western Australian Constitution Bill may with truthfulness be entered in this category, and while it would be unfair to include Lord Knutsford, as he seems to have been sincere in his desire to grant autonomy, it is doubtful whether he was anxious to grant it without further delay or without unreasonable restrictions upon this²⁾ control of the lands."

1. Parl. Pap. 1890. XLIX. (c. 5919) pp. 50-57.

2. Battye: Op. cit. p. 390

The Enabling Bill was introduced into the House of Commons in February, 1890, and met with much opposition. The Colonial Office had altered the Constitution so as to give the Crown power to veto any Colonial act aimed at the exclusion of immigrants and to give the Colony control of the Crown lands south of 26°. After the second reading, a Select Committee took evidence between March 13th¹⁾ and May 6th. The delegates stood firm for the original constitution and were successful in getting the Legislature complete control of the Crown lands. The Constitution having been altered accordingly, the Enabling Bill was passed on July 4th, 1890, and received the Royal Assent on July 25th.

The Act²⁾ provided for a Legislative Council and a Legislative Assembly, the former of 15 members nominated by the Governor and the latter of 30 elected members. The first Council was to last for six years or until the population reached 60,000 when it was to become elective. Members were to be elected for six years and to retire in rotation every two years. The franchise was given to freeholders of £200 capital value and to householders and leaseholders of £30 annual value. The duration of the Assembly was four years. Members of both houses had to have freehold of £500 capital value or £50 annual value. The vote for the Assembly was given to every man over 21 years who had freehold worth £100 or leasehold or licence worth £10 per annum or who occupied a dwelling or lodging of £10 annual value.

The Act was proclaimed on October 21st, 1890, and the first Parliament under responsible government met for business on January 20th, 1891.

1. Parl. Pap. 1890. XVIII. 160.
2. 53 & 54 Victoria. c.26.

III. THE ATTITUDE OF BRITISH OPINION ON COLONIAL ISSUES.
IN THE NINETEENTH CENTURY.

The First Empire had been founded and built up in accordance with the theories of the Mercantilists. The value of the colonies was estimated from a commercial point of view. They were to supply the mother country with all the raw material she needed for her industries and were to be markets for her manufactures. Their commerce and industries were closely regulated and they traded with foreign countries only when permitted by the Mother Country and after fulfilling certain conditions. Slavery and transportation were regarded as legitimate parts of the system because they helped to provide more cheaply for the wants of England. No doubt there were advantages for the colonies under this system but policy was determined by the effects on England.

The loss of the American colonies was taken calmly enough partly because new settlements were soon commenced in Australia and partly because trade with the newly established United States was soon greater than it had been when they were parts of the Empire. Time proved that, as far as trade was concerned at any rate, Great Britain derived nothing but loss from the dominion she assumed over her colonies.¹⁾ Many, agreeing with Turgot's well-known simile, came to regard the loss as inevitable.

At the close of the Napoleonic Wars and in the years immediately following, little interest appeared to be taken in colonies for valuable conquests were restored to France and Holland without raising a protest. Overseas possessions did not bulk largely in contemporary imaginations. To such a statesman as Lord Palmerston,

1. Wealth of Nations. Bk. IV. Ch. VII. Pt. III.

with the whole of European diplomacy at his finger tips, colonies were more or less of an irrelevancy. His patriotism was that of an islander, it was in the little England that had, within his memory, stood alone against a Continent in arms.¹⁾ Later evangelical sentiment, missionary enterprise and the growth of humanitarianism were responsible for more official attention and were evidenced in the emancipation of slaves and greater consideration for native races.

The report of the Committee for Trade and Plantations²⁾ on the proposed changes in the government of the Australian colonies (May 1st, 1849) pointed out that it had always been the policy of the Government to grant local legislatures to the colonies but "the lesson learned from the successful revolt of the American Colonies was, not that colonies should be given more freedom, but rather that the net should be drawn more tightly about those that were left, lest they too should seek to escape."³⁾ Fox's remark during the debates on the Canada Bill (1791), "I am convinced that the only means of retaining distant colonies with advantage is to enable them to govern themselves," found no sympathetic echo for years to come. Bentham's advice to the French National Convention in 1793, "Emancipate your colonies," was more palatable. Writing in 1841, G. Cornwall Lewis stated that since the close of the American war, it had not been the policy of England to grant any legislative power in a dependency to a body elected by the inhabitants, the Canadian provinces being a⁴⁾ partial exception.

The attitude of the country to the colonial empire may be gathered from the writings of the time. For example, an article in

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1. Wingfield Stratford: History of British Civilisation. p. 1032.
 2. Grey: Colonial Policy of the Administration of Lord J. Russell. Vol. I. p. 423. Sweetman: Australian Constitutional Development p. 365. Keith: British Colonial Policy, Vol. 1. pp. 197-214. Parl. Pap. 1850. XXXVII. (1160). pp. 54-64.
 3. H.D. Hall: British Commonwealth of Nations. p. 22.
 4. Government of Dependencies p. 160.

the Edinburgh Review for October, 1808, says "Independence is a stage at which all distant and prosperous colonies are destined ultimately to arrive. If foresight does not voluntarily relax the ties of the metropolis, force will in time assuredly break them." In August, 1825, another article in the same journal stated that Great Britain derived no benefit from the North American colonies and prophesied that they would soon become part of the United States; while in February, 1826, another writer said there was not the slightest prospect of maintaining those colonies for long and he looked forward to the dissolution of the connection. James Mill, in his article on Colonies in the Encyclopaedia Britannica for 1818, said that colonies were of no use to their possessors but were a fruitful source of wars. Joseph Hume, the Radical Member of Parliament in 1823 spoke of the colonies as a source of weakness and expense which England would be better without.¹⁾ A writer in the Quarterly Review for April, 1829, said he was opposed to separation but believed it inevitable, just as children grow up and leave home. Radicals like Brougham and "Philosophical Radicals" like Grote and Roebuck favoured separation. The first half of the century developed into an era of emancipation. Free thought and free trade would be accompanied by the freedom of the colonies. The second colonial empire would follow the first and was already ripening towards emancipation. "The Colonial system," said Cobden, "with all its dazzling appeals to the passions of the people can never be got rid off except by the indirect process of Free Trade, which will gradually and imperceptibly loose the bonds which unite our Colonies to us by a mistaken notion of self interest."²⁾ He believed and

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1. Bodelsen: Studies in Mid-Victorian Imperialism. p. 15.
 2. Morley: Life of Richard Cobden, Vol.1. p. 230.

hoped that free trade would be the dissolvent of the Empire and thought that it was as much to the interest of Great Britain to develop the United States as Canada or Australia. Cornwall Lewis wrote, "If a dominant country understood the true nature of the advantages arising from the supremacy and dependence of the related communities, it would voluntarily recognize the legal independence of such of its own dependencies as were fit for independence; it would, by its political arrangements, study to prepare for independence those which were still unable to stand alone; and it would seek to promote colonization for the purpose of extending its trade rather than its empire, and without attempting to maintain the dependence of its colonies beyond the time when they need its protection."¹⁾

Contrasting the policy of former times with that of his own days (1856), Arthur Mills wrote, "To ripen those communities to the earliest possible maturity - social, political, and commercial - to qualify them, by all the appliances within the reach of a parent State, for present self-government, and eventual independence, is now the universally admitted object and aim of our Colonial policy."²⁾

Unless influenced by the Colonial Reformers, Free-Traders, Utilitarians, and Philosophical Radicals were usually in favour of separation and this tendency was increased by the cost of the colonies to the mother country. Nevertheless, colonization went on though a great change had taken place in the commercial policy of the country. Great Britain was now a free trade country and colonies were permitted to trade with each other and with foreign countries, though a preference was given to Great Britain in the colonial markets.

1. Op.cit. p. 324.
 2. Colonial Constitutions. p. LXIX.

Preference had taken the place of monopoly in the colonial system and Huskisson, who had been head of the Colonial Office for six months in 1827-8, saw the political as well as the economic advantages of Imperial preference. Dr. Morrell says that the principles dominant in colonial policy in 1841 were colonial preference, systematic colonization, self government stopping short of responsible government and humanitarianism.¹⁾ This change was largely due to the influence of Stephen, Permanent Under-Secretary for the Colonies from 1836 to 1847, an Evangelical of the "Clapham Sect", and to the Colonial Reformers who had administered a temporary check to the Separatists. The Colonial Reformers "were the truest Imperialists of their time, and it is hardly too much to say that it was due to their efforts more than to anything else that the second colonial Empire did not go the way of the first."²⁾ It was the influence of men like Wakefield, Buller and Durham that first taught Englishmen not only to think, but also to organize, imperially.³⁾ For their schemes of systematic colonization, it was necessary that the connection between the colonies and the mother country should be permanent, hence their advocacy of what they called "responsible government," a form of government which was by no means as liberal as the responsible government of later times.

Their movement began about 1830 and its influence was greatest between the years 1840 and 1855. Though few in number, they exerted a great influence by means of their writings, organizations and speeches in Parliament. Colonial policy though often inspired by the highest principles was just as often a matter of guesswork. The Colonial Reformers tried to base it on a well-defined system.

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1. Colonial Policy of Peel & Russell. p. 27.
 2. Bodelsen: op.cit. p. 16.
 3. Wingfield Stratford: op.cit. p. 954.

Wakefield's influence was potent in everyone of our greater colonies and he was responsible for a much saner conception than hitherto of what a colonial system should be.¹⁾ Lord John Russell and Earl Grey both showed sympathy towards some of their views. Grey looked on the threatened loss of Canada as no ordinary calamity. He regarded the colonial empire as a source of power and believed the colonies would be much better off by remaining within the Empire. In the eyes of the colonists, he was over cautious in the grant of self-government, believing, as he did, in giving it in stages,²⁾ but in his schemes for federal union, he was thinking of their interests. Moreover, he regarded the maintenance of the connection as a responsibility which Great Britain had no right to shirk.³⁾

Lord John Russell was of much the same opinion. England gained certain commercial benefits from the colonies and it was her duty not to abandon them. If she did, they might be annexed by some other power. Since it was likely that some of the colonies would reach the stage when they felt that they could stand alone, it was the duty of the British Government to make them fit to govern themselves when that step was taken.⁴⁾ The grant of self-government would allow colonies to part. Some would grow so much in population and wealth that they would find the link with Great Britain onerous and would seek independence, though in amity and alliance. If Great Britain made them fit to govern themselves, then she would have done her best for them.⁵⁾ Neither Russell nor Grey looked on the colonies as encumbrances and Grey deprecated withdrawal just for the sake of a "few thousands a year."⁶⁾

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1. Wingfield-Stratford: op.cit. p. 953.
 2. Grey: op.cit. Vol.1. pp. 33-34.
 3. Ibid. Vol.1 II. pp. 11-17.
 4. Morrell: op.cit. pp. 491-2.
 5. de Kiewiet: British Colonial Policy & The South African Republics 1848-1872. p. 45.
 6. Grey; op.cit. Vol.1. pp. 13-14.

Wakefield's writings, Durham's historic Report - The Bible of the British Commonwealth - and the parliamentary activities of Buller and Molesworth gave the colonies plenty of publicity. Apart from systematic colonization, their greatest contribution to colonial policy was their advocacy of responsible government as they understood it. The revolt of the American colonies had put a stop for a time to the grant of self government. Trouble arose in Canada through the form in which representative institutions were granted. The legislative power was in the hands of a Governor appointed by the Crown, a Legislative Council nominated by the Governor and an Assembly elected by the people. Executive power rested wholly with the Governor who was assisted by an Executive Council chosen by himself and responsible only to himself. This form of representative government was considered a necessary preliminary to responsible government and the trouble was caused by conflict between the executive and the representative bodies. Buller said that representative without responsible government was like a fire without a chimney and the 1837 Rebellion served to show the impossibility of maintaining the system. In his Report, Durham suggested that ministers should be chosen who could command the support of the majority of members in the Assembly, and that a division should be made between imperial and local matters, the latter being given unreservedly into the hands of the colonial legislatures. In this way the connection between the colonies and the mother country would be preserved. Their loyalty would be in proportion to their freedom.¹⁾

His proposals were attacked in England. The Quarterly Review for March, 1839, spoke of "this new, and to us incomprehensible system of colonial connection; the Report calls it connection - to our understanding it is absolute separation," and warned its readers

1. Durham: Report on the Affairs of British North America. Vol. II.

that the authors of the Report had overlooked the fact that Canada was a province, a colony. In advocating this new system of colonial connection based upon the free consent of self-governing states instead of on the dependence of a province on a central government, Durham struck a blow at the old colonial system. Responsible government was not mentioned in the Union Act of 1840 but the principle was conceded during the governorship of Lord Elgin (1847-1854) and a few years later it came into operation in the Australian colonies. Durham did not believe that the grant of responsible government to the colonies would lead to separation but considered it "the only means of fostering such a national feeling throughout them as would effectually counter-balance whatever tendencies may now exist towards separation."¹⁾ The grant of responsible government probably saved the Empire. It rescued the colonies from the position of inferiority to which dependence had relegated them and in which every check or slight from the mother country, real or imaginary, roused feelings of bitterness and rebellion. It is true that the current conception of responsible government was limited, but, as time went on, it developed more freedom. In 1839, Durham wrote, "The constitution of the form of government, - the regulation of foreign relations, and of trade with the mother country, the other British Colonies, and foreign nations, - and the disposal of the public lands, are the only points on which the mother country requires a control."²⁾ Fourteen years later, Section 2 which was withdrawn from the New South Wales Constitution Bill attempted to limit the Imperial powers still further. This section stated that Bills touching on Imperial subjects should be those relating to the naturalisation of aliens; treaties between the Crown and any foreign power; political intercourse and communications between New South Wales and officers of a foreign

1. Durham: Op. cit. Vol II. pp. 309.310.
 2. Ibid. Vol II. p. 282.

power or dependency; the employment, command and discipline of Her Majesty's sea and land forces within the colony and whatever related to the defence of the colony; and the crime of high treason. Victoria would have added the law of divorce. The division between local and imperial affairs was never made by Statute but was left to be dealt with as problems arose, hence the way was left open for the gradual encroachment of the colonies on what were considered imperial matters. J.R. Godley writing from New Zealand on December 1st, 1852, placed the allegiance of the Colonies to Her Majesty's Crown first on the list but the remainder were practically the same¹⁾ as the New South Wales list.

The adoption of freetrade by England and the transfer of the control of customs and crown lands to the colonies considerably increased their powers while the right to amend their own constitutions after they had been granted in individual cases was given in 1865 by section 5 of the Colonial Laws Validity Act. The Colonial Reformers did not approve of giving the colonies control of the crown lands. For their schemes of colonization it was necessary that the Home Government should have control as local legislation might prevent the trial of their theories and the usefulness of the colonies as outlets for the surplus population of Great Britain would be lessened. Some people thought that the Home Government's policy indicated a belief that the imperial connection was neither permanent nor desirable. Durham, Buller and Grey considered the land to be the property of the Empire as a whole, to be used for the good of the Empire and not for any one part exclusively.²⁾

When the colonies were granted fiscal freedom, it was thought that they would adopt a policy of free trade, hence Cobden's

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1. Quoted in Labilliere: British Federation: its Rise & Progress. Proceedings of Royal Colonial Institute. Vol XXIV. p. 99.
 2. Durham: Report. Vol. II, p. 13. Buller's Report on Public Lands and Emigration in Durham's Report. Vol. III. p. 57: Grey: op.cit. Vol. 1. pp. 318-319.

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 approval. The Colonial Reformers never thought the colonies would
 put duties on imports from the mother country.²⁾ Molesworth said
 "Free trade with the colonies and free access to the colonies should
 in my opinion be the sole aim of the dominion which Great Britain
 retains over her colonies."³⁾ He pictured the Empire as a system
 of colonies clustered round the hereditary monarchy, an enlightened
 view which, Marriott says, places him as one of the forerunners of
 the Imperial Federation movement.⁴⁾

J.S. Mill held that the imperial connection should be maintained
 as long as it was not disagreeable to either party. It would aid
 universal peace, prevent colonies from being absorbed in foreign
 nations, thus adding to their strength, prevent hostile tariffs and
 add moral influence and weight to the mother country.⁵⁾

Grey believed that the Imperial Parliament should determine
 the commercial policy of the Empire at large. When Parliament
 adopted a policy of freetrade, it did not abdicate the duty and
 power of regulating the commercial policy not only of the United
 Kingdom but of the British Empire. Such policy should be uniform
 throughout the Empire and the adoption of bounties and duties in
 the colonies would hinder the attainment by the mother country of
 free trade with foreign countries.⁶⁾

The leading reformers died early, Durham in 1840, Buller in
 1848, Molesworth in 1855 and Wakefield in 1862. Although their
 theories when put into practice had not removed colonial discontent,
 nevertheless they had pointed out some valuable lessons. Wakefield
 had shown that there existed in the colonies a deep sense of loyalty to

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1. Cobden: Speeches. Vol.1. pp. 503-504.
 2. Wakefield: Art of Colonization. p. 472.
 3. Molesworth: Speeches (ed. Egerton) p. 209.
 4. Mechanism of the Modern State. p. 304.
 5. Representative Government. Chapter XVIII.
 6. Grey: op.cit. Vol. 1. pp. 280-282.

and love for Great Britain and that her policy often caused more disappointment and sorrow than anger.¹⁾ The administration and the influence of the permanent officials were, he believed, the cause of much trouble and often hampered the good work of able governors. Indeed, the abler the governor, the more likely he was to be recalled.²⁾ Buller's attack on the Colonial Office is well known.³⁾ The high-water mark of approbrium of the Colonial Office was reached between 1840 and 1850 and was due chiefly to Glenelg, Secretary of State for the Colonies from 1835 to 1839. Wakefield's attack on the Colonial Office was to a certain extent personal. From 1836 to 1847, the Permanent Under-Secretary was Stephen. He had entered the Colonial Office in 1813 and had, therefore, a wide knowledge of colonial affairs. He distrusted Wakefield and was opposed to his land and colonization theories. Colonization was not the concern of the Government though colonies were useful for absorbing England's surplus population and he believed in colonizing with the best material available. Progress towards self-government should be gradual. He was opposed to democracy, mixed chambers and other experiments but upheld the form of government usual in the American colonies of Governor, Council and Assembly. Responsible government should be granted only when it could no longer be safely withheld. The Home Government should interfere as little as possible but always be ready to guide and counsel. The connection of the colonies with England was beneficial to the colonies but some of them were "wretched burdens to this country which in an evil hour we assumed, but which we have no right to lay down again."⁴⁾ But it was to England's interest to keep the Empire together and to the interest of the peace

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1. Art of Colonization p. 100.
 2. Ibid. pp. 235 and 254.
 3. Buller: Responsible Government for Colonies p. 146. Lowe said "The choice really is between the Colonial Office and the Colonial Empire - you cannot keep both." - The Times July 20th, 1850.
 4. C. Stephen: The First Sir James Stephen. p. 144.

of the world generally. His humanitarian outlook impressed him with England's responsibilities.

Durham maintained that the less interference there was, the stronger would be the union between the colonies and the homeland.¹⁾ He was claimed as the "first British statesman to use the word 'perpetual' in speaking of the connection between the colonies and the mother country!"²⁾

From the beginning, Wakefield advocated nothing short of self-government for colonies, that is, representative government with local control of local matters, without any necessary reference to the subordination of the executive to the legislature.³⁾ Economic measures alone were not sufficient to make a colony prosperous; there was also to be good government. "The authors of that theory attached the highest importance to the subject of government, believing that the best economical arrangements would not work well without provisions for a good political government of the colonists."⁴⁾ He was anxious to avoid the evils of government from a distance and so advocated the municipal principle of local self-government rather than the central principle of government from the distant centre of an empire.⁵⁾ Under the former the American colonies prospered but, when the latter was attempted, trouble followed.⁶⁾ Self government was cheapest for the mother Country and it was better because it was in the hands of those most interested. The capacity for self government grew with its exercise.⁷⁾ It would strengthen the bonds of empire and if it did not prevent separation it would at least

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1. Report. Vol II. pp. 284, 310.
 2. Colonial Gazette. July 29th, 1840. Quoted in Mills: Colonization of Australia. p. 267.
 3. Mills: Colonization of Australia, p. 125. note 4.
 4. Wakefield: Art of Colonization p. 45.
 5. Ibid. p. 224.
 6. Ibid. p. 232. Wakefield: England & America. Vol III. p. 249.
 7. Art of Colonization p. 244.

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 delay it. Nevertheless, the Colonial Reformers could not see beyond provincial status nor reconcile full autonomy with the colonial connection. They saw no difference between independence and separation. 2)
 Interdependence was unknown. To Molesworth, responsible government was the restoration to the colonists of their rights as Englishmen but distance made certain modifications essential. 3)
 "The chief part which he played in the work of colonial reform under the tutelage of Wakefield was to advocate strenuously the policy of self-government for colonies, and to maintain that it was quite consistent with a close relation between mother country and colony." 4)
 The chief object of his parliamentary and public life was to educate the country to share this view and see its importance. 5)

The growth of colonial nationhood was altering the old relationships. The middle of the century saw a renewal of interest in colonies. The stream of emigration had stimulated colonial life and increased the responsibilities of the Colonial Office. Underlying principles were changing. The colonies were developing towards the position of allied states but the Colonial Reformers did not see this. No doubt, they would have realised it in time and changed their views accordingly. But to most people of their time complete self-government and independence were synonymous.

The influence of the Colonial Reformers was overcome by the full force of the adherents of the Manchester School and whereas the first half of the century found some relief in the optimism of Wakefield and his supporters, the twenty years from 1850 to 1870

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1. Wakefield: Letter from Sydney. p. 66.
 2. Wakefield: Art of Colonization. pp. 269-271, 275, 307 etc.
 Molesworth: op.cit. Speeches on Australian Government Bill 1850.
 Lewis: op.cit. p. 307.
 3. Molesworth: op.cit. p. 314.
 4. Mills: Colonization of Australia. pp. 143-144.
 5. Fawcett: Life of Molesworth. p. 157.

formed a period of pessimism. The Manchester School was inspired by the economic teachings of Adam Smith but its members exaggerated his theories. He was certainly not a separatist but one of the earliest federalists for he advocated the representation of the colonies in the British Parliament according to their contribution¹⁾ to the revenue of the Empire. But events seemed to prove that the fears of the Manchester School with regard to the colonies were well-grounded. As the American Revolution had led to the freedom of those colonies, so the Canadian Rebellion of 1837 was followed by partial freedom which would, no doubt, be followed by complete freedom. There was a strong feeling in Canada for annexation by the United States, there was considerable unrest in New South Wales and the growth of national feeling in the colonies was evidenced by their encroachment on the powers of the Home Government. Although the monopolies and commercial restraints of the Mercantile System had been removed, the Manchester School still regarded the colonies from a purely materialistic point of view, expressed, for example, by Cornewall Lewis²⁾ and by Merivale who had succeeded Stephen at the Colonial Office.³⁾ Colonies were not to be maintained by artificial means. Cobden did not object to their retention by ties of affection but he regarded separation as the wiser course and favoured Canadian federation because he thought it would facilitate amicable separation. Speaking in 1849, he said "I admit that the political connection between the colonies and the Mother Country must become less and less strong, and ultimately I can see that it will be but a thread of connection politically speaking. But, on the other hand, by giving the colonies the right of self government, with a good will shaking

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1. Wealth of Nations. Bk. IV. Ch.VII. Pt. III Cf. Nicholson: A Project of Empire.
 2. Government of Dependencies p. 324.
 3. See his Lectures on Colonization and Colonies.

hands with them, you will retain the connection commercially and morally far more strongly than you could by any political bond; the one is by the sword, the other is by the strong bond of affection for the Mother Country."¹⁾ This is a more hopeful utterance than many that were made at the time. It did not imply forcing the colonies adrift completely and making enemies of them, but suggested that a much closer and more enduring, because less irksome, bond would be forged to connect them. This is really more advanced than the views of the Imperialists of the later years of the century and almost describes the modern situation.

The Colonial Reformers and the Manchester School favoured self-government but for different reasons. The latter held that by giving self-government, peaceful separation would take place; by refusing it, or giving it half-heartedly, another war of independence would occur. If the free-trade feeling had not been so strong, their views on colonial policy might have been more half-hearted. But Cobden and Bright visualised colonies peopled by the "economic man" of the political economists, whose self-interest would lead to political independence and perpetual free-trade with England. The free trade victory of 1846 removed one of the chief reasons for keeping the colonies and marked a turning-point in the history of the Colonial Empire.²⁾ Separation became the accepted policy.

The Manchester School, with its policy of *laissez-faire*, had a definite bias against colonies. Their connection with the mother country was thought to be maintained artificially and to savour of Mercantilist theories. "The colonies" said Cobden in 1836, "are merely accessories to our aristocratic government. John Bull has his work cut out for the next 50 years to purge his house of these

1. The Times. December 24th, 1849.

2. Grey: *op.cit.* Vol. 1. pp. 10-11.

impurities."¹⁾ He complained of the cost of defending them and their likelihood of involving England in war, especially in the case of Canada and the United States. But the great cause of this separatist feeling amongst Free Traders was the colonial tariffs. Looking at the colonies from the point of view of material profit and loss, Cobden found them a bad bargain but with free trade, it would not matter under what flag they lived, and thus free trade would lead to disarmament and peace.

Trade with the United States had increased so much that Free Traders thought that trade was not dependent upon political connections and that it would be better if the colonies were independent.

Emigration could still go on and systematic colonization in the existing colonies was no longer possible since they controlled their own land policy. That independence was the ultimate and inevitable destiny of the colonies was clearly indicated to them by the constant encroachment of the colonies on subjects which were considered the preserve of the Home Government. "It is a great pity", wrote Rogers in 1854, "that, give as much as you will, you cannot please the colonists with anything short of absolute independence, so that it is not easy to say how you are to accomplish what we are, I suppose, all looking to, the eventual parting company on good terms."²⁾ Many thought that no colony could maintain its connection with the mother country and its self respect at the same time. The idea of a partnership of free and equal nations was yet to come.³⁾ Cornwall Lewis stated the advantages derived by the dominant country from its supremacy over a dependency as six in number, namely, tribute or revenue; naval or military assistance; trade; outlets for emigration and investment of capital; transportation of criminals;

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1. Political Writings. p.2.
 2. Marindin: Letters of Lord Blachford. p. 175.
 3. Ibid. p. 300. Trollope: Australia and New Zealand. Vol.1. p. 356.

1) prestige. Of the first five of these, he said that if Great Britain had them at all, she would continue to have them even if the colonies were independent. As for the sixth, it was a myth. He concluded, therefore, that such colonies as were fit should become independent; that those that were not fit should be prepared for independence, while colonisation should be promoted for the sake of extending trade rather than empire.²⁾

It is fair to say that those who favoured separation considered the welfare of the colonies as much as that of Great Britain and did not advocate turning the colonies adrift to their own harm. The feeling of the United States towards Great Britain was regarded as a warning that dissolution must not be allowed to engender bad feeling. "To ripen those communities to the earliest possible maturity - social, political and commercial - to qualify them, by all the appliances within the reach of a parent State, for present self-government, and eventual independence, is now the universally admitted object of our Colonial policy."³⁾

The Under-Secretaries, Stephen (1836-47), Merivale (1847-59) and Rogers (1860-71) must have exerted considerable influence on the side of separation. The power of the Colonial Office was growing. Parliamentary interest was languid and cabinets gave little attention to colonial matters. "I go far with you," wrote Rogers in 1865 to Henry Taylor, another Colonial Office official, "in the desire to shake off all responsibly-governed colonies."⁴⁾ To the Duke of Newcastle, who was Colonial Secretary from 1859 to 1864, Taylor wrote in 1846, "In my estimation the worst consequence of the late dispute with the United States has been that of involving this country and its North American provinces in closer relations and a common cause."⁵⁾

1. Op.cit. Chap. VI.

2. Ibid. p. 324.

3. Arthur Mills: Colonial Constitutions, p. 17. Written in 1856.

4. Autobiography of Sir H. Taylor. Vol.II. pp. 241-2.

5. Ibid. pp. 234-242

"In a sentence such as this," says Hall, "we reach the lowest depth of the separatist movement."¹⁾ Taylor continued, "When your Grace and the Prince of Wales were employing yourselves so successfully in conciliating the colonists, I thought that you were drawing closer ties which might be better slackened if there were any chance of their slipping away altogether. I think that a policy which has regard to a not very far off future should prepare facilities and propensities for separation." Such views, though held by an important section of the governing classes, fortunately did not become the accepted opinion of the majority of the people. Even as late as 1877, Rogers still believed in ultimate separation. The federation of Canada, its growth in wealth and population, were leading in that direction, If the connection were maintained, the interests of Great Britain would be sacrificed to those of the colonies.²⁾

Stephen, though believing that separation was inevitable, held that England should never give up a single colony but should gradually relax the bonds of authority as the colonies desired, so substituting a federal for a colonial relation. The colonies, not the mother country, should assume the responsibility for separating. Taylor, Merivale and Rogers agreed and were quite willing that the responsibly-governed colonies should rise to national autonomy. Merivale believed they would remain loyal to the Crown but Taylor thought that Canada should be given every chance of slipping away altogether.³⁾

The Tories were dismayed at the growth of democracy in the colonies, the natural outcome of which they believed to be independence and separation, and they regretted the lessening of British supremacy accompanying it. In 1852, Disraeli said, "These wretched

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1. H.D. Hall: op.cit. p. 51.
 2. Nineteenth Century. October 1877. "The Integrity of the British Empire."
 3. Bell & Morrell: British Colonial Policy. pp. XXIV-XXVI.

colonies will all be independent too in a few years, and are a mill-stone round our necks."¹⁾ The Whigs were somewhat divided as they included some of the Colonial Reformers but they also included Bright and Cobden whose influence increased as that of the Reformers waned. Grey, in 1849, spoke of the opinion which prevailed in the House of Commons and in the highest quarters that the country had no interest in maintaining the colonies and that no attempt should be made to keep them. He mentioned Peel, Graham and Gladstone as among those who thought thus though he himself did not.²⁾ He was opposed to the dismemberment of the Empire though it "is not only openly advocated by one active party in the country, but is also hardly less effectually supported by persons occupying an important position in Parliament, and who, while they hesitate to avow their adherence to it, hold language which obviously leads in the same direction and advocate measures the adoption of which would inevitably bring about this result."³⁾ Grey had a firm belief in the direct responsibility of Great Britain for the sound government of her colonies, and to him the mother country was literally a mother country. Room had to be left for the assertion of her authority and he could see no middle course between real control by her over colonial affairs and total severance of the imperial relationship. He was opposed to unremunerative expenditure but fully alive to the responsibilities and obligations of empire. In this policy, Russell generally agreed and up to the middle of the century, public opinion⁴⁾ was largely with them.

Goldwin Smith, an Oxford professor, stated the case for separation in his book, "The Empire", (1863) and his chief concern

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1. Malmesbury: Memoirs of an Ex-Minister Vol.I. p. 344.
 2. Morison: British Supremacy & Canadian Self-Government pp. 366-6. Dr. R.C. Mills includes Grey, Op.cit. p. 268.
 3. Grey: op.cit. Vol. I. p. 17.
 4. de Kiewiet: Op.cit. pp. 28-35.

was that the parting should be made in a friendly spirit. This seemed to be the attitude of most thinkers at the time. No doubt the suggestion that the colonies should pay for their own defence was due to the feeling that it was unwise to spend money on colonies that would soon become independent. In speaking on the Australian Colonies Government Bill (1850), Russell seemed to be looking forward to a friendly separation,¹⁾ though in announcing the Queen's assent to the new constitutions in 1855, he expressed confidence in the maintenance of the colonial connection "thus cemented alike by feeling and principle."²⁾ To the historian Lecky he said, "When I was young, it was thought the mark of a wise statesman that he had turned a small kingdom into a great empire. In my old age, it appears to be thought the object of a statesman to turn a great empire into a small kingdom."³⁾

After travelling in English-speaking countries during 1866 and 1867, Charles Wentworth Dilke published in 1868 two volumes entitled "Greater Britain", in which he expressed the opinion that the connection between England and Canada should be severed. Its annexation by the United States was inevitable and meanwhile its maintenance was costly. Canada placed duties on British goods and Great Britain gained nothing by the connection. If it were given up, relations with the United States would improve.⁴⁾ With regard to the other self-governing colonies, he believed separation was inevitable but he did not wish the parting to cause ill-feeling. Great Britain gained nothing from them either; they made no contribution to their own defence; they would not assist her in war; they would be better outlets for emigration if separated and they added nothing to her

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1. Morrell: Op.cit. pp. 490-492. Egerton: Short History of British Colonial Policy. p. 259.
 2. Egerton: Op.cit. p. 260.
 3. Lecky: Historical & Political Essays. pp. 46-47.
 4. Vol. I. pp. 74-80.

prestige. Since the Australians wished to remain in the Empire, they should not be forced out but made to share in the cost of defence. The retention of Australia and New Zealand would then be a duty.¹⁾ As for the dependencies, he was strongly opposed to giving them up, as such a course would mean loss of trade. Moreover, they provided excellent training for administrators and soldiers and Dilke advanced the idea of trusteeship for the coloured races.²⁾ Whether the colonial empire were lost or not Dilke, like Carlyle who has been called the spiritual or philosophic ancestor of modern imperialism,³⁾ visualised a moral dictatorship of the world by the countries which had adopted Anglo-Saxon institutions and which spoke the English language.⁴⁾ Dilke's views gained a good deal of approval in the press reviews of these two volumes,⁵⁾ which evidently reflected the opinions of a large section of the country.

Separation was beginning to take on a new meaning for some people. There began to grow up the concept of "an intimate British Group of States united by formal and informal ties of alliance and assisting each other to live a more complete life."⁶⁾ Roebuck in 1849⁷⁾ and Goldwin Smith both thought that England would become "the heart and centre of a great confederacy of States belonging to her own race."⁸⁾ Merivale in discussing the connection between the colonies and the parent country wrote, "But it does not follow as a necessary consequence that the attainment of domestic freedom is inconsistent with a continued dependence on the imperial sovereignty. Union might be preserved long after the sense of necessary

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1. Vol. II. pp. 150-157.
 2. Vol. II. pp. 394-395.
 3. Wingfield-Stratford: Op.cit. p. 1161.
 4. Vol. I. p. 318.
 5. Bodelsen: Op.cit. pp. 71-72.
 6. H.D. Hall: Op.cit. p. 51.
 7. The Colonies of England.
 8. The Empire p. 25.

dependence is gone. I do not speak of that inglorious and unlovely subjection which may be maintained by force ... But the mere political link of sovereignty may remain, by amicable consent, long after the colony has acquired sufficient strength to stand alone. Existing relations may be preserved, by very slight sacrifices, on terms of mutual goodwill. But this can only be by the gradual relaxation of the ties of dependence. The union must more and more lose the protective and approximate to the federative character. And the crown may remain, at last in solitary supremacy, the only common authority recognised by different legislatures, by many nations politically and socially distinct.¹⁾ Twenty years later (1861), he said that the British colonies in North America and in Australia were held by "the very slightest link which ever held together distant communities. But, in a national sense, its very slightness seems to admit of greater durability."²⁾ Common danger would bind the parts closer together but "we can count but little on the permanence of common interests." Leagues and alliances decay and some small and unforeseen matter will cause the disruption when it comes. All policy can do is to see that there is no "serious convulsion" resulting in "blood and tears."³⁾ It is strange to think that the progress of the colonies during the years between the first publication of Merivale's lectures and their revision twenty years later should have induced such a frame of mind in their author. Adderley was more hopeful and said that "between the alternatives of dependence and separation lies the real secret of a lasting connection - that common partnership."⁴⁾

The policy of granting more and more political freedom to the colonies and of withdrawing Imperial troops no doubt led to the

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1. Op.cit: pp. 632-633.
 2. Ibid. p. 676.
 3. Ibid. p. 677.
 4. Contemporary Review. May, 1869.

feeling in England that separation was inevitable and there were many who thought it was the policy of the governments to grant complete self-government in order to cut the colonies adrift. Disraeli said in 1872 that there had been no effort so continuous, so subtle, supported by so much energy, and carried on with so much ability and acumen, as the attempt of Liberalism to effect the disintegration of the British Empire. These subtle views were adopted by the country under the plausible plea of granting self-government.¹⁾ But in the colonies, it had the opposite effect and strengthened the tie that bound them to the home country. It is almost certain that the colonies could have had their dependence for the asking and their knowledge of this served to keep them within the Empire. Of self-government, Dr. Mills says that its great merit was that it gave each colony an opportunity for working out its own problems of government in its own way. It did not make for separation but for distinct improvement in the relations of the colonies to the mother country. After 1854, the demand in England for a diminution of expenditure on the colonies grew steadily stronger. This meant the assumption of greater responsibilities by the colonists and the ease with which between 1848 and 1854 bills were passed endowing New Zealand, the Australian colonies and the Cape Colony with generous constitutions was perhaps due to the belief that self-governed colonies are inexpensive to the mother country. By 1861, the policy of withdrawing imperial troops from colonies that were not naval stations was²⁾ definitely adopted and such a policy involved responsible government.

Speaking of the views which prevailed at Whitehall during the middle years of the century, Marriott wrote, "The Titan was weary of

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1. Monypenny & Buckle: Life of B. Disraeli. Vol.X. pp. 194-195.
 2. de Kiewiet: op.cit. pp. 5-6.

the burden imposed upon him; the triumph of Free Trade would soon reduce to a minimum the economic advantages of an extended Empire; the young communities, guarded with parental solicitude during the period of adolescence, would one by one reach man's estate, and endowed with the liberty appropriate to that status would set up for themselves and contribute, in free but friendly competition to the common good of the family of nations. Such was the settled policy, begotten in part of cynical indolence but not wholly lacking in high idealism, consistently pursued by successive ministries from the passing of the first Reform Bill to the passing of the second."¹⁾

Goldwin Smith's writings are of importance, for his brilliant statement of the case for separation later contributed to the re-action in favour of closer unity. He pointed out that the ending of the mother country's monopoly of the colonial trade, the repeal of the Navigation Acts in 1849 and the establishment of free trade were the chief reasons for freeing the colonies from their "childish thralldom," Encroachment by the colonies on the reserve of Imperial power was leading to independence and he hoped the parting would not take place in anger.²⁾

Separation would be good for both sides. "What shall we give to England in place of her useless dependencies? What shall we give a man in place of his heavy burden or dangerous disease? What but unencumbered strength and the vigour of reviving health?"³⁾ Separation might lead to a moral federation of the whole English-speaking race throughout the world and England could become the heart and centre of a great confederacy of states belonging to her own race.

Roebuck, a Philosophical Radical, forecast the development of national federations in Canada, Australia and New Zealand. His

1. Mechanism of the Modern State. pp. 306-307.
 2. The Empire, pp. 2, 18, 25, 59, 60.
 3. Ibid. p. XIX,

logical mind led to his prediction of their ultimate independence.¹⁾

Separatists and "Little Englanders" by fostering the growth of colonial nationality, counter-acted the Tory and Whig Imperialists whose premature attempts at an Imperial superstate might have brought about the dissolution of the Empire.

The deepening pessimism of the sixties and seventies was increased by the rumour that Gladstone intended to turn the colonies adrift.

Froude even said that he was working to make separation inevitable.²⁾

But gradually signs of reaction began to appear. In 1868, the Royal Colonial Institute, now the Royal Empire Society, was founded. Its objects were "To provide a place of meeting for all gentlemen connected with the Colonies and British India, and others taking an interest in Colonial and Indian affairs; to establish a Reading Room and Library, in which recent and authentic intelligence upon Colonial and Indian subjects may be constantly available, and a Museum for the collection and exhibition of Colonial and Indian productions; to facilitate interchange of experiences amongst persons representing all the Dependencies of Great Britain; to afford opportunities for the reading of Papers, and for holding Discussions upon Colonial and Indian subjects generally; and to undertake scientific, literary, and statistical investigations in connection with the British Empire. But no Paper shall be read, or any Discussion permitted to take place, tending to give the Institute a party character."³⁾ Its members included men of high standing and though they held various political opinions, the Institute adopted a definitely Imperialist attitude.

Colonial problems came in for discussion at the Congresses of the National Association for the Promotion of Social Science which were held annually in different parts of Great Britain. At the

1. The Colonies of England pp. 170. et. seqq.
 2. Quoted in H.D. Hall: op.cit. p. 53.
 3. Report of Proceedings. R.C.I.

Bristol meeting (October, 1869), of the five who read papers on the "Legal and Constitutional Relations between England and her Colonies" only one did not advocate the retention of the colonies. By 1871, the Imperial Federation movement was under way. The growth of militarism and the spread of protectionist policies on the Continent caused colonies to be looked on as useful sources of raw materials, markets for the manufactures of the mother countries and recruiting grounds for soldiers. Moreover, the masses of the English population were awakening. Mid-Victorian England was Middle Class and its contribution to colonial policy was Responsible Government, Separatism and Pessimism. But the attitude of the masses was different. "The people of this country," wrote Roebuck, "have never acquiesced in the opinion that our colonies are useless and they look with disfavour upon any scheme of policy which contemplates the separation of the Mother Country from the Colonies. For this opinion the people have seldom been able to render an adequate reason."¹⁾ Increased emigration had set up many personal ties between the colonies and the mother country and colonial loyalty to England reaching out to meet English loyalty to kith and kin overseas was ending the period of doubt and pessimism. Separatist tendencies in Australia were only on the surface and protests were made not so much against the imperial connection as against particular aspects of colonial policy such as transportation. Of the change which followed the grant of responsible government, Merivale wrote in 1861, "The magnitude of that change - the extraordinary rapidity of its beneficial effects - it is scarcely possible to exaggerate. None, but those who have traced it, can realise the sudden spring made by a young community under its first release from the old tie of subjection, moderate as that tie really was. The cessation, as if by magic, of the old

1. The colonies of England. p. 8.

irritant sores between colony and mother country is the first result. Not only are they at an end, but they seem to leave hardly any traces in the public mind behind them. Confidence and affection towards the 'home', still fondly so termed by the colonist as well as the emigrant, seem to supersede at once distrust and hostility. Loyalty, which was before the badge of a class suspected by the rest of the community, becomes the common watchword of all; and, with some extravagance in the sentiment, there arises no small share of its nobleness and devotion. Communities, which but a few years ago would have wrangled over the smallest item of public expenditure to which they were invited by the executive to contribute, have vied with each other in their subscriptions to purposes of British interest, ... Nor is the advance in social progress, contemporaneous with this change, less remarkable than the improvement in public feeling.¹⁾

From 1870 onwards the theories of the Manchester School were gradually displaced and the policy of *laissez-faire* began to lose ground in the economic sphere. Fortunately, a sense of responsibility had prevented its application to colonial affairs to the same extent that it had been applied to commerce and industry. Germany, France and Italy entered the sphere of colonial activity and amid the scramble for territory and the struggle for protected markets, the foundations of Free Trade began to be undermined. In the world-wide competition, it was to Great Britain's advantage to maintain her connection with all her colonies unless she wished to lose her commercial supremacy. In fact, her colonies forced her at times to increase her possessions whether she wished to or not. Canada had successfully accomplished her federation and the talk of union with United States died down. Improved relations with the United States

1. Op.cit. pp. 641-642.

lessened the possibility of Canada's involving the mother country in war with her southern neighbour. The earlier separatist prophecies were not being fulfilled, nor, to use Carlyle's term, had the Calico Millennium of the Manchester School arrived. Since the withdrawal of the imperial troops from most of the colonies and the grant of responsible government, the comparative cost of the colonies to the mother country had lessened. Improved communications by means of steamship and cable had brought the parts of the Empire more into touch with one another though at the same time rendering the outlying parts more liable to attack by foreign countries. Unity was in the air. The unification of Italy had been completed, the German Empire had been established and the United States had waged a long and expensive war to maintain their union intact. Moreover Disraeli was finding it to his advantage to assert himself in world politics and his policy, imperial rather than colonial, helped to produce pride in the size of the Empire and a desire to maintain and increase it. Changes in world politics led Great Britain to reconsider her estimate of such portions of the earth as she already possessed. The rise of a new Mercantilism with high protective tariffs and cut-throat competition caused a new value to accrue to markets under the national flag whence exclusion was not to be feared.¹⁾ Colonial questions might have reactions in international affairs; therefore they required closer attention than before.

As a result of Gladstone's policy towards New Zealand, a series of meetings was held at the Cannon Street Hotel during the period November 24th, 1869, to January 5th, 1870, at which colonial problems were discussed. These meetings brought colonial questions into

1. Hearnshaw: Democracy and the British Empire. p. 63.

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prominence and caused much newspaper criticism.

During 1869 and 1870, a movement for assisted emigration to the colonies in order to relieve distress at home took on an Imperialist complexion and a petition from London working-men to the Queen (February 15th, 1870) expressed alarm at the thought of giving up any of the colonies. About the same time, the Imperialist movement gained an influential recruit in the Liberal statesman, W.E. Forster, who in a speech to his Bradford constituents (January 15th, 1870) declared his belief in the maintenance and closer unity of the Empire.²⁾

On November 5th, 1875, in an address to the Philosophical Institution of Edinburgh, he gave an able statement of the case for closer union.

Government policy led to protests against the dismemberment of the Empire and these led on to discussion of schemes by which the Empire might be kept intact. So began the Imperial Federation movement with which I shall deal later.

Gladstone's political career extended over more than sixty years and during that time his views on colonial policy underwent a good deal of change as the Empire increased and fresh problems presented themselves. When he first entered public life in 1832, he was not particularly interested in the colonies but in that respect he was only sharing the general indifference of the times. None of the colonies then had responsible government and he doubted the advisability of granting it to them, but later he became convinced that local autonomy was the only means by which Great Britain would be able to solve the problem of her relations with the colonial empire. At first, his classical studies led him to believe that the colonies should be granted a limited form of self-government somewhat resembling that accorded to the municipalities of the

1. Bodelsen: op.cit. pp. 102-103.
 2. Bodelsen: op.cit. p. 105.

Roman Empire but as his outlook widened with experience and his views became more mature, he regarded the colonial relations of Greece as a better model for the British Empire. He believed that its integrity should depend on the ties of sentiment and affection for the mother country. The Empire was a heavy responsibility; the burden was already too heavy and he was averse to increasing it. In his desire to improve the lot of all British subjects, he was afraid that the more the Empire expanded, the more difficult it would be to achieve this object.

In 1832, the colonial empire existed mainly for the benefit of the mother country, who seemed, so far, to have learned nothing of any value from the American revolt, and who still clung to inefficient, absolutist methods in colonial government. There was no well-defined colonial system. Gladstone's outlook was largely influenced by Burke's doctrines of colonial relationships.

Circumstances forced Gladstone to take a closer interest in the colonies. His father owned slaves in the West Indies, then a very important part of the Empire, and when the Emancipation Bill was before Parliament in 1833, Howick (later Earl Grey) attacked the elder Gladstone. In order to defend his father, the son was forced to acquaint himself^{with} colonial problems and conditions thus commencing a study which he continued throughout his life. In January, 1835, Peel made him Under-Secretary for the Colonies but, though he held office for only three months, he took his work seriously and when he went out of office, he commenced collecting material for a work on "Colonies and Colonization."¹⁾ These notes show that he was deeply impressed by the heavy responsibility which the founding of colonies

1. Morley: Life of Gladstone Vol. I. p. 132. Knaplund: Gladstone and Britain's Imperial Policy, pp. 168-184.

threw upon Great Britain. He believed that their welfare would be best insured by providing them with an Established Church and a landed aristocracy, the twin pillars of society, without which their social structure would lack strength and cohesion. The greatest defect in the American colonies had been the lack of an Established Church. The colonial Legislative Councils should be aristocratic in structure and their members carefully chosen, so that these bodies might afford administrative training and improve the colonial public service. The franchise should not be democratic but based on a property qualification and a long term of residence. Individual immigration was not favoured as it would lead to the loss of national culture and tradition. A weakness of colonial society was that it lacked the association of antiquity and fame and he believed that an independent and self-controlled existence gave little promise for the future. Since the colonies were bound to become independent sooner or later, it was Great Britain's duty to the world to make them as much like the mother country as possible. Commercial problems could be left to themselves for solution, but it was not so with ethical problems. The colonies should receive such attention and training that when they became independent they would be able to maintain the Anglo-Saxon tradition which they had inherited. To insure this was great Britain's mission in the world. His early views changed as he grew older and, in later years, he expressed admiration for the robust democracies produced by the trials and hardships of the pioneer's life. Serving on numerous Parliamentary committees on colonial questions, he was able to enlarge his knowledge of the Empire. He was at first decidedly conservative in his views but for the times, he was comparatively liberal. "His speeches on Canada show just as little comprehension of the real issue as that which characterised the opinion of most English

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 statesmen." The Canadians demanded responsible government. This was something new even for England; its essential features were not fully understood and it had never been tried in the colonies. Gladstone was distrustful and showed no sympathy at all towards the Canadian rising, which he considered wholly unwarranted, since personal security had not been invaded, property was adequately protected by the laws, religion was not oppressed, and taxation was not heavy.
 2) Responsible government was only for independent states and if granted to Canada, it would lead to separation. This would be no loss for Great Britain, since the colonies gained more by their connection than did the mother country. He had no wish to keep the colonies in bondage but as long as the connection was maintained, the Imperial Parliament should retain its supremacy. On June 10th, 1839, in a speech on the suspension of the constitution of Jamaica, he stated the general principle that the Imperial Parliament possessed supreme control over the colonial legislatures, though it should not meddle in purely local affairs. The right to interfere should be reserved for "great and worthy occasions."
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In the debate on the Government of Canada Bill (May 29th, 1840), Gladstone expressed himself as certain that this measure would have no permanent benefit and would not lead to the introduction of responsible government which was incompatible with colonial status. It was the duty of the Government to keep the colonies as long as possible and spare no pains to maintain the unity of the Empire. The colonists had the right to be supplied with the social and political institutions of the mother country and to decide when they should cease to be British subjects. Separation would ultimately be

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1. Knaplund: Op.cit., p. 31.
 2. Hansard. 1837. 37. p. 96.
 3. Hansard. 1839. 48. p. 119.

brought about as the result of diverging social evolution, the colonies becoming democratic, Great Britain remaining aristocratic.¹⁾ This outlook was pessimistic and Gladstone was now tending towards a laissez-faire attitude in which not the Established Church or the landed aristocracy, but freedom, would be the strongest tie.

Speaking on the New Zealand Bill, (June 20th, 1838), Gladstone stressed the importance of regulating the relations between the native races and settlers and missionaries.²⁾ He attributed the Great Trek to the Government's vacillating native policy.³⁾

From 1841 to 1845, as Vice-President and then President of the Board of Trade, his contact with colonial administration showed him the need for economy and efficiency and the folly of maintaining two separate customs establishments in the colonies. He even urged the removal of certain duties on colonial goods as an act of goodwill cementing the connection between the colonies and the mother country.⁴⁾

When, at the end of 1845, Gladstone became Secretary of State for the Colonies, his appointment was welcomed by the Colonial Reformers since his political and economic views were tending more and more towards Liberalism.⁵⁾ The Times said that Stanley's treatment of the colonies was a mixture of indifference and impetuosity but from Gladstone, the friends of the colonies might hope for impartial inquiry and an honest devotion to duty. As Knaplund points out, Stanley and Gladstone followed divergent lines and were poles apart in their attitude to the colonies. Where Stanley dictated, Gladstone reasoned and argued. The former was brusque and challenging;⁶⁾ the latter, courteous and conciliatory.

The repeal of the Corn Laws soon ended the days of mercantilism

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1. Hansard. 1840. 54. pp. 730-731.
 2. Hansard. 1838. 43. p. 874.
 3. Hansard. 1838. 44. pp. 114-115.
 4. Hansard. 1842. 60. p. 154.
 5. Dec. 26th, 1845.
 6. Op.cit. p. 40.

with its exploitation and control from Downing Street. In spite of the prevailing pessimism, Gladstone aimed at co-operation based on equality, the creation and maintenance of good feeling and the establishment of self-government with no interference in local affairs. His instructions to Cathcart, Governor-General of Canada, and to Grey, Governor of New Zealand, are quoted by Knaplund to illustrate his views in this respect.¹⁾

Unfortunately, Gladstone's views with regard to transportation were not enlightened and his attempts to renew transportation to New South Wales and to found a new convict settlement in what is now Queensland made him unpopular in Australia.²⁾ The recall on Stephen's advice of Eardley Wilmot, Governor of Van Diemen's Land, was another unfortunate incident which increased his unpopularity.³⁾ Nevertheless, he was regarded in England as one of the few statesmen who understood the colonial question and he was invited to become chairman of the Colonial Reform Society. In his address on "Scientific Colonization" at St. Martin-in-the-Fields (March 27th, 1849), he again expressed his opinion that the church and religion would keep the colonies united to the mother country after political union was ended.⁴⁾ Independence was inevitable but this should be prepared for by granting self-government and reducing the power, but not the political influence, of Great Britain to a minimum, thus making the colonies English in thought and feeling and training them to undertake the management of their own affairs.

By 1850, Gladstone might be called a Colonial Reformer. He took an active part in the debates on the new Australian constitutions. He believed in consulting the colonists and getting their views on the proposed changes and in giving them power to

1. Op.cit. pp. 44-48.

2. See Hogan: The Gladstone Colony.

3. Ibid: Chapted XIII, and Morley, Vol.1. p. 359.

4. The Spectator. March. 31st, 1849.

amend their constitutions. He believed in a liberal franchise in order to prevent the rise of an oligarchy and was opposed to nominated upper houses, to imposing an Imperial tariff on the colonies and to the exercise of the Imperial veto on local legislation. He supported Molesworth in his desire to define those subjects which should be reserved exclusively for local legislation and those over which the Imperial Parliament should have power. The colonies would not be loyal if they were discontented and self-government would cure discontent. The object of colonization was not to gain pecuniary benefits for the mother country but to extend British law and political institutions for the benefit of the world. He believed that freedom was the main thing and that granted that unity¹⁾ would take care of itself. "Experience has proved", he said, "that if you want to see British institutions adopted and beloved in the colonies, you must never associate with them the hated name of force and coercion adopted by us Their natural disposition is to love and revere the name of England, and this reverence is by far the best security you can have for their continuing not only to be subjects of the Crown but to render it that allegiance which proceeds from the depths of the heart of man." Quoting this speech, Ramsay Muir adds, "Whatever his critics might say, Gladstone was never a Little Englander. He had grasped the conception of the British Commonwealth as a partnership of free peoples. Here was a proclamation of liberty rather than authority as the cement of peoples, which is the essence of the Liberal creed."²⁾ His address³⁾ on the colonies delivered at Chester (November 12th, 1855) elaborated his views and showed how far he had progressed since his entry into politics.

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1. Morrell: Colonial Policy of Peel & Russell. p. 518.
 2. Hearnshaw (ed.): Prime Ministers of the Nineteenth Century, pp. 212-213
 3. Knaplund: op.cit., pp. 185-227.

Gladstone was opposed to the maintenance of garrisons of Imperial troops in the colonies and his policy of withdrawing them called forth much unfriendly criticism. He thought it degrading to the colonies that small standing armies should be maintained for the purposes of display, for police duties and for enriching the community by the expenditure of Imperial funds. In New Zealand and at the Cape, he believed the practice tempted the colonists to adopt high-handed methods in their treatment of the natives and to be over-ready to make war on them. Self-defence and self-government went together and once a colony was granted self-government, it should develop self-reliance and provide for its own defence. The Imperial Government could provide for naval defence without lowering the dignity of the colonies since the naval forces would not be used by the colonial governments to suppress disturbances caused by their own mismanagement. When attacked, he denied that he was trying to cut the colonies adrift or that he begrudged the expense. He was merely ending a system that was unsound strategically and in every other way. Unfortunately, the withdrawal of troops from New Zealand was ordered while the government of the colony was waging war against the Maoris. The British Government disapproved of the native policy of this colony which it considered unjust and based on a desire to deprive the natives of their own lands and it was not likely that Gladstone would approve of the use of Imperial troops to assist in carrying it out. The withdrawal was not pressed in South Africa since the Government realised that the troops were necessary for the protection of the colonists. Granville the Colonial Secretary, (March 21st, 1869) refused requests for the retention of the troops and also, as an alternative, a loan for defence purposes. The colonists had, he said, brought the troubles upon themselves by their greed for land and were really in debt to

the mother country if she liked to urge her claim. The Times (October 14th., 1869), the Daily News (July 24th., 1869), a Liberal organ, and the Morning Post (July 24th.), a Conservative paper, supported the Government policy, while the Conservative Standard and the Radical Spectator attacked Granville and accused him of wanting to get rid of New Zealand. Knaplund quotes the concluding paragraph of a despatch (June 16th., 1869) to Young, Governor-General of Canada, to support the charge that Granville "was willing to cut the bonds of imperial union."²⁾ "You will," he wrote, "also be good enough to bring to my notice any line of policy or any measures which, without implying on the part of Her Majesty's Government any wish to change abruptly our relations, would gradually prepare both Countries for a friendly relaxation of them." But Granville did not take his duties at the Colonial Office very seriously and this statement might have been suggested by Rogers who was then the Permanent Under-Secretary. In reply to a deputation from the Gannon Street Conferences, Granville made the rather unemphatic statement that he would be exceedingly sorry to see England deprived of all her colonies but she would never attempt to keep them by brute force.³⁾ He made a similar statement in the House of Lords on February 14th., 1870,⁴⁾ when questioned by Carnarvon while Gladstone in the House of Commons on April 26th., denied that the Government meant to abandon the colonies and repeated his belief in the principle of freedom and voluntary union. If separation came, it would be a peaceful and friendly transaction.⁵⁾ When in June, Kimberley succeeded Granville, the Government's colonial policy ceased to arouse so much adverse criticism.

1. Parl. Pap. 1868-69. XLIV. 218. pp. 1-2.

2. Op. cit. p. 99.

3. Times. December, 17th., 1869.

4. Hansard. 1870. 199. pp. 193-233. Debate on colonial policy.

5. Hansard. 1870. 200. pp. 1807-1908. Debate on motion for select committee on the colonies.

During Gladstone's first ministry, 1868-1874, responsible government was granted to the Cape but was refused to Natal because the latter colony was considered unready for it. After some years of agitation and long opposition from Gladstone, the Australian colonies were at last permitted to adopt preferential tariffs (1873). Gladstone who was devoted to free trade, held out long after most of the Colonial Office officials were agreeable to give way. Canada had gained this power because of the proximity of the United States but conditions were different in Australia. Gladstone was afraid Great Britain's treaties with foreign countries might be affected and, as Duffy was at this time putting forward requests for colonial neutrality, he was afraid the consequences might be far-reaching. By including Macdonald, the Canadian Prime Minister, in the Commission to the United States in 1871, Gladstone set a precedent for consulting the self-governing colonies when their interests were concerned in negotiations with foreign countries.

Federation of groups of colonies was favoured by Gladstone. He urged the federation of Canada in 1864 and now refused to agree to Nova Scotia's secession, exhorted Prince Edward Island and British Columbia to join and pressed the Hudson Bay Company to sell its territory to the Dominion. He approved of Kimberley's suggestion for federation in South Africa and was ready to re-admit the Boer states to the Empire. He was always averse to the annexation of territory but sometimes circumstances compelled him to give way. It was the activities of colonial governments traders and missionaries that forced the annexation of Fiji and Griqualand West but he refused to add any of the Malay Peninsula to the Empire which he considered already over-burdened. He denounced aggrandisement. Annexations meant additional burdens and an increased area reduced

the power of the Empire.¹⁾ In his election campaign of 1880 he defended his colonial policy against the attacks of his political enemies with these words, "As to the colonies, liberal administrations set free their trade with all the world, gave them popular and responsible government, undertook to defend Canada with the whole strength of the empire, and organized the great scheme for uniting the several settlements of British North America into one dominion, to which, when we quitted office in 1866, it only remained for our successors to ask the ready assent of parliament. It is by these measures that the colonies have been bound in affection to the empire, and the authors of them can afford to smile at baseless²⁾ insinuations."

In his second ministry, Gladstone's reputation was not improved by events in South Africa. The South Africa question he regarded as "the one great unsolved and perhaps insoluble problem" of the colonial system.³⁾ The surrender of the Transvaal had been decided upon even before the disaster at Majuba Hill since the Government had been led to believe that the Boers had settled down, and it required a great deal of courage to carry it out after the defeat. There were sufficient British troops in South Africa to avenge this defeat but Gladstone would not sacrifice lives merely to satisfy British pride. He acted on the principle of refusing to force the Boers to remain in the Empire against their will and he was ready to put up with the political consequences at home. In his attitude to the New Guinea question, he incurred further wrath from the Australians. He was anxious to win the friendship of Germany in order to counter-balance the unfriendliness of France and Russia and insure the safety of Egypt and India. The wishes of the Australian colonies were therefore over-ruled in the wider interests

1. Nineteenth Century Sept. 1878. "England's Mission."
 2. Morley. Vol. 11. p. 607.
 3. Ibid. Vol. III. p. 22.

of the Empire as a whole. He welcomed the presence of the Germans in Africa because they would tend to keep the South African colonies in the Empire, so probably he thought their presence in New Guinea would have a good effect on the Australian colonies. "We have to remember," he wrote, "Chatham's conquest of Canada, so infinitely lauded, which killed dead as mutton our best security for keeping the British Provinces."¹⁾

Gladstone's colonial policy has been much mis-understood and even Egerton wrote that Gladstone's "genius and the genius of Greater Britain stood opposed."²⁾

His critics point to such things as the attempt to extend the convict system in Australia, the withdrawal of troops from New Zealand, his opposition to preferential tariffs and imperial federation, the surrender of the Transvaal and the German annexation of New Guinea, and pronounce his policy a failure. Moreover, Gladstone was blamed for failing to rescue Gordon from the Soudan so that after the death of that popular hero it was very difficult for any policy of his to be received with favour. His positive achievements are less prominent from the very nature of them. The grant of self-government to a colony is not spectacular, neither is the enunciation of the principles on which a policy is founded. The British Empire is so widespread that it is impossible for Great Britain to exercise any close control over the scattered units which inevitably developed until they reached almost equality with the mother country. The Empire would not be kept together by laws and constitutions and Gladstone saw that Imperial Federation would defeat its own object. He saw that the only way to maintain these units within the Empire was by entrusting them with self-government and making them free. By refraining from co-ercion, by assisting their development, by consulting their wishes and by

1. Knaplund: Op.cit., p. 155.

2. Short History of British Colonial Policy, p. 316.

offering them protection, the mother country made sure of the unity of the Empire. These were the principles that Gladstone advocated and on which every successful colonial policy has since been based. The principles underlying the relations between Great Britain and the Dominions today would undoubtedly have been approved by Gladstone. Masterman writes, "When Secretary of State for the Colonies he laid down those counsels of the relationship between the Dominions and the Mother Country which alone have maintained and developed the 'awful fabric of the British Empire' and this at a time when the Manchester School on the one side, and Disraeli with his Oriental dreams on the other, were each inclined, although for different reasons, to let the Colonies go their own way and work out their own salvation."¹⁾

This trouble over the New Zealand policy helped the reaction against a policy of drift and separatism. Both the "Standard" and the "Spectator" published during 1869-1870 series of articles criticising the government's colonial policy. A meeting of influential colonists held on August 14th, 1869, resolved to appoint a committee to communicate with the different colonial governments in reference to relations with the mother country in view of the government's New Zealand policy which seemed to aim at separation, perhaps in a hurried and unfriendly spirit.²⁾ The result of the circular was the Cannon Street meetings held weekly during the period November 24th, 1869, to January 5th, 1870, for the discussion of colonial questions generally and the government's policy in particular. The "Times" suggested that a peaceful separation of the colonies should be negotiated and that it would be better for Englishmen and Australians "if the independence the latter have in

1. Morley: Life of Gladstone (popular edition, 1927), Preface, p. XIII
 2. "Times", August 26th, 1869.

fact should receive a name." ¹⁾ Unfortunately the meetings were not well managed and though they brought colonial affairs into prominence, they had a bad reception in the press.

Disraeli throughout his career gave practically no attention to the self-governing colonies. The only active steps taken during his ministry to create a policy for those colonies occupied by people of British descent consisted in the unfortunate manoeuvres of Lord Carnarvon and Mr. Froude in South Africa. He was more fond of visions than of realities and did nothing to formulate new bonds, to urge new unities of thought and feeling and, what is more important, to try out new expedients by which Greater Britain might become more closely knit. ²⁾

He was interested in colonial affairs only in so far as they affected his home or foreign policies. During the period 1849-1851, he thought of colonial representation in the British parliament not so much for the purpose of consolidating the Empire as for gaining supporters for the Conservative party, and in the debate on Gladstone's Reform Bill, May 14th, 1866, he put in a plea

for the representation of the Colonial and Indian Empires. ³⁾ In 1852, he wrote the oft-quoted remark that "these wretched colonies will all be independent in a few years, and are a mill-stone round our necks," ⁴⁾

while as late as 1866, in advocating the withdrawal of Imperial troops from Canada, he wrote what would seem to sum up his policy. "Power and influence we should exercise in Asia; consequently in Eastern Europe, consequently also in Western Europe; but what is the use of these colonial dead-weights which we do not govern?" By withdrawing troops, recalling ships and abandoning

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1. "Times", August 26th, 1869.
 2. W.P.Hall. Empire to Commonwealth pp. 16-17.
 3. Monypenny & Buckle: op.cit. vol,III. pp.237,333-334,Vol IV pp.329. 434.
 4. Ibid. Vol. III. p. 385.

West African colonies "we shall make a saving which will at the same time enable us to build ships and have a good budget."¹⁾ His biographers tell us that he lived in the hey-day of laissez-faire,²⁾ but, as another writer puts it, "With his usual quickness and agility of mind, he was able to throw off the effects of the epoch in which he grew up."³⁾ He criticised the Liberals for granting the colonies fiscal autonomy and control of their lands and for not exacting from them a share in their own defence, but by the time he came into power, it was too late and would have been too unwise to have tried to remedy this. In 1862, he wrote to Adderley, "When our Colonial System was reconstructed, either the colonies should have had direct representation or the military prerogatives of the Crown should have been so secured that the faculty of self-defence in the colonies should always have been considerable."⁴⁾

But his utterances with regard to the colonies do not all breathe the same sentiments. In 1858, he expressed the hope that the recently established colony of British Columbia "may be but one step in the career of steady progress by which Her Majesty's dominions in North America may ultimately be peopled, in an unbroken chain, from the Atlantic to the Pacific, by a loyal and industrious population of subjects of the British Crown."⁵⁾ The following year, when war between France and Austria was imminent, he said, "The day is coming, if it has not already come, when the question of the balance of power cannot be confined to Europe alone You have on the other side of the Atlantic vigorous and powerful communities, who will no longer submit to your circumscribed theory of

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1. Monypenny & Buckle: Op.cit., Vol. IV. P. 476.
 2. Ibid. Vol. IV. p. 231.
 3. J. St.L. Strachey in Goldman (ed.) "The Empire & The Century" p.155.
 4. Monypenny & Buckle: Op.cit. Vol. IV. p. 329.
 5. Ibid. Vol. IV. p. 170.

authority. The Australian colonies though now in their youth, but in the youth of giants, have already as it were, thrown their colossal shadow over Europe We are bound to the communities of the New World, and those great States which our own planting and colonising energies have created, by ties and interests which will sustain our power and enable us to play as great a part in the times yet to come as we do in these days and as we have done in the past." ¹⁾ He was beginning to see that the colonies might be of assistance in furthering his spirited foreign policy. In 1865, when the victorious northern states of the United States of America were showing hostility to the Canadian colonies which were preparing to federate, he declared that these colonies should be retained so long as they wished to remain in the Empire. If they wished to separate and be absorbed by the United States, "we might terminate our connection with dignity and without disaster. But if, on the other hand, those views are just which are more generally accepted - if there should be, on the part of Canada and the other North American Colonies, a sincere and deep desire to form a considerable State and develop its resources and to preserve the patronage and aid of England until the mature hour when we shall lose our dependency but gain a permanent ally and friend - then it would be the greatest political blunder for us to renounce, relinquish and avoid the responsibility of maintaining our interests in Canada at the present moment." It would be fatal to give up Canada just because of the expense. The opposition, he thought, did not agree with him but took "a truly patriotic and English view of this subject - namely, not to force our connection on any dependency; but if, at a moment of revolution in North America, we find our colonies asserting the principle of their nationality, and if, foreseeing a glorious future, we find

1. Monypenny & Buckle: Op.cit., Vol. IV. p. 231.

them still depending on the faithful and affectionate assistance of England, it would be the most short-sighted and suicidal policy to shrink from the duty that Providence has called upon us to fulfil." ¹⁾ His statement that it was Great Britain's duty to aid Canada to defend herself if attacked by the United States was an announcement of his foreign, rather than colonial policy.

Disraeli's famous speech at the Crystal Palace on June 24th, 1874, indicates a definite change not only in his opinion as to the importance of colonial questions in British politics but also in the attitude of the majority of the people towards the colonial Empire. "If you look to the history of this country since the advent of Liberalism - forty years ago - you will find that there has been no effort so continuous, so subtle, supported by so much energy and carried on with so much ability and acumen as the attempts of Liberalism to effect the disintegration of the Empire of England. And, gentlemen, of all its efforts, this is the one which has been nearest to success. Statesmen of the highest character, writers of the most distinguished ability, the most organised and efficient means, have been employed in this endeavour. It has been proved to all of us that we have lost money by our Colonies..... How often has it been suggested that we should at once emancipate ourselves from this incubus! Well, that result was nearly accomplished. When those subtle views were adopted by the country under the plausible plea of granting self-government to the Colonies, I confess that I myself thought that the tie was broken. Not that I for one object to self-government; I cannot conceive how our distant colonies can have their affairs administered except by self-government.

But self-government, in my opinion, when it was conceded, ought to have been conceded as part of a great policy of Imperial consolidation. It ought to have been accompanied by an Imperial tariff,

1. Monypenny & Buckle: Op.cit. Vol.IV. p. 406.

by securities for the people of England for the enjoyment of the unappropriated lands which belonged to the Sovereign as their trustee, and by a military code which should have precisely defined the means and the responsibilities by which the Colonies should be defended, and by which, if necessary, this country should call for aid from the Colonies themselves. It ought, further, to have been accompanied by the institution of some representative council in the metropolis, which would have brought the Colonies into constant and continuous relations with the Home Government. All this, however, was omitted because those who advised that policy - and I believe their convictions were sincere - looked upon the Colonies of England, looked even upon our connection with India, as a burden to this country; viewing everything in a financial aspect

Well, what has been the result of this attempt during the reign of Liberalism for the disintegration of the Empire? It has entirely failed. But how has it failed? Through the sympathy of the Colonies for the Mother Country. They have decided that the Empire shall not be destroyed; and in my opinion no Minister in this country will do his duty who neglects any opportunity of reconstructing as much as possible our Colonial Empire and of responding to those distant sympathies which may become the source of incalculable¹⁾ strength and happiness to this land."

In thus attacking the Liberals, Disraeli evidently forgot that it was the Liberal, Grey, who withheld self-government for so long and the Conservative, Pakington, who granted it together with the control of waste lands, but whatever the methods of the two parties were, their general attitude was now the same. It is quite probable that the sympathy of the colonies for the mother country to which

1. Monypenny & Buckle: Op.cit. Vol. V. pp. 194-195.

Disraeli attributed the unity of the Empire was fostered by the policy he attacked, and it is also probable that had self-government been granted on the terms which he mentioned, this sympathy would not have come into being nor would the Imperial consolidation that he aimed at have been achieved. Sir William Gregory said that Disraeli's expressions with regard to the colonies were always those of contempt and that he had a contented impression that Great Britain would sooner or later be rid of them.¹⁾ But the real significance of the speech is that separation had had its day. Imperialism had become popular and the Conservatives must take it under their wing before the Liberals had the chance to do so. It might help to "dish the Whigs" if an occasion demanded it. "Two elements Disraeli did have a share in adding to Imperialism: the first beginnings of the association of Imperialism with Jingoism dates from his experiments in Indian and foreign policy, and the particular brand of Imperialism which Seeley called the bombastic school may be said to have been first brought into fashion by Disraeli's Indian policy and his taste for the external symbols of Imperial rule as exemplified by the Royal Titles Act, by which the Queen assumed the title of Empress of India."²⁾

"The period of doubt and the policy of drift"³⁾ ended in the 70's and the revival of belief in the Empire was accompanied by a great outburst of activity in the devising of plans for its more effective government. Of the powers which Durham had reserved for Imperial legislation, foreign policy alone remained and this subject was becoming of increasing importance to all the colonies. Australia,

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1. Bodelsen: op.cit. p. 123.
 2. Ibid. p. 124.
 3. H.D. Hall: op.cit. p. 57.

for example, had seen European powers expand into the Pacific and had been powerless without the aid of the mother country to prevent them. Reconstruction of the government of the Empire was considered necessary in order to give the colonies some voice in foreign affairs, to check divergent tendencies and to combine the economic and military resources of the Empire. Two speeches by Robert Lowe refer to this subject. In the Legislative Council in Sydney on August 20th, 1844, he said, "I hold and believe that the time is not remote when Great Britain will give up the idea of treating the dependencies of the Crown as children to be cast adrift by their parent as soon as they arrive at manhood and substitute for it the far wiser and nobler policy of knitting herself and her colonies into one mighty Confederacy girdling the earth in its whole circumference, and confident against the world in arts and arms."¹⁾ At a banquet

to Wentworth in Sydney on January 26th, 1846, he spoke as follows: "The Imperial Government could declare war or peace without the consent of the colonies, although while the glory was allotted to the mother country, safe in her impregnable island fortress, the ravages and horrors of war were sure to fall upon her dependencies. On these great questions he would ask if the colonies had a voice - a whisper, by which to make their claims heard. In such matters, a tenpound householder, in the meanest borough of England, had a more influential voice than all New South Wales."²⁾

But Lowe was not the first to speak like this. In 1822, J.B. Robinson suggested the inclusion of representatives of the colonies in the British Parliament in order to make known the needs of the colonies thus lessening cause for dissension, and making them feel that they were parts rather than dependencies of the Empire.³⁾

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1. Sydney Morning Herald. August 21st, 1844.
 2. The Atlas. Jan. 31st, 1846. Quoted in J.P. Martin: Australia and the Empire. p. 255.
 3. Egerton & Grant: Canadian Constitutional Development. p. 147.

During the debates on the Reform Bill in 1831, Hume proposed the representation of the colonies much to the amusement of the House of Commons. J.R. Godley, who took a prominent part in the affairs of New Zealand, said in a lecture in 1852, "Before the time arrives when those Colonies, conscious of power, shall demand the privileges of standing on equal terms with the Mother Country in the family of nations, I trust that the increased facility of intercourse may render it practicable to establish an Imperial Congress for the British Empire, in which all its members may be fairly represented, and which may administer the affairs which are common to all."¹⁾

In 1854, Howe of Nova Scotia urged that the outlying parts of the Empire should be given an interest in the naval, military and civil services with the idea of keeping the Empire together. Closer organisation would make the Empire prosperous in peace and invincible in war. He therefore proposed that the self-governing colonies should be represented in the House of Commons by members of their cabinets in proportion to their population and that Parliament should then legislate to organise and finance the defence of the Empire, the bills to be sanctioned by the Colonial legislatures.²⁾ Other colonials who advocated such representation were Blake, a Canadian, who became a member of the House of Commons, and Vogel of New Zealand.³⁾

As Labilliere points out, they were reviving suggestions that had been made many years before. Edmund Burke had considered it before the American Revolution and Adam Smith wrote "There is not the least possibility that the British Constitution would be hurt by the union of Great Britain with her colonies. That Constitution, on the contrary, would be completed by it and seems to be imperfect without

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1. Labilliere: British Federalism: its Rise & Progress. Proceedings R.C.I. Vol. XXIV. p. 99.
 2. Ibid. p. 100. Burt: Imperial Architects. pp. 109-111. Roy: Joseph Howe, p. 132. Howe: Speech on .. the Right of British Colonists to Representation in the Imperial Parliament.
 3. Labilliere. op.cit. p. 100.

it. The Assembly which deliberates and decides concerning the affairs of every part of the Empire ought certainly to have representatives from every part init."¹⁾

No doubt the growth of the political powers of the colonies during the first half of the Nineteenth Century put the idea somewhat in the background but Merivale referred to it and pointed out that representation in the House of Commons would lead logically to the abolition of the colonial legislatures. If they were retained, colonial representatives in the House of Commons voting on Imperial questions would also vote on the domestic questions of the United Kingdom. He believed that no colony would exchange any part of its right of self-taxation for slight representation in the House of Commons. There would have to be a distinction between central and local powers and perhaps a subordinate parliament would be established for the domestic affairs of the United Kingdom and an Imperial Parliament for Imperial affairs.²⁾

After the grant of responsible government, the only clear restriction which the imperial administration placed upon the autonomy of the self-governing colonies lay in the sphere of foreign affairs. They were not allowed to have diplomatic representatives in the courts and capitals of the world; they had to conduct negotiations through the agency of the British Ministry; they had to run the risk of being involved in wars with which they had no immediate concern.³⁾

During the period 1855-1862, there existed in London the General Association for the Australian Colonies. Among its members were many prominent Australians and it was formed in the first place to promote the passing of the Constitution Bills for the Australian

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1. Wealth of Nations: Bk.IV. Ch.7.
 2. Op.cit. pp. 631 and 667.
 3. Hearnshaw: Democracy and the British Empire, p. 110.

Colonies. Amongst other things, it did valuable work in securing improved communications with Australia, obtaining more adequate naval defence and establishing a Commodore's station in Australian waters.¹⁾

In 1857, it dealt with the following proposal:- "That a memorial be presented by the Association to the Secretary of State for the Colonies, requesting that he will be pleased, in the Cabinet deliberations on the forthcoming Reform Bill, to represent to Her Majesty's Ministers the strong claims of the colonies to some share of representation in the Imperial Legislature, but that it be at the same time expressed to Mr. Labouchere that, in the opinion of the Association, the Colonies could not accept of Parliamentary representation unless their present rights of self-taxation be continued and preserved to them inviolate." After consideration, this interesting motion was withdrawn as inopportune.²⁾ The fact that so many suggestions for perpetuating and strengthening the connection between the mother country and the colonies came from colonists seems to indicate that the policy of granting self-government and allowing latitude to local knowledge and wishes, instead of bringing about the parting which many in the old country expected, only made the colonists more eager to remain in the Empire.

But in 1853, an Englishman, Rev. William Arthur, expressed the opinion that the granting of constitutions would not keep the Empire together and suggested adding "to our legislative chambers an Imperial Senate, without the concurrence of which no measures affecting Imperial questions can pass; let each existing Colony, on reaching a certain point of population or revenue be eligible to become, on its own application, a State and a member of the Imperial Federation, bound by the organic laws, and sending to such Imperial

1. Labilliere: op.cit., p. 101.

2. Ibid.

Senate its representatives in such proportion as shall be fixed." On provincial or internal questions, the colonies were to be free, but on Imperial questions, they were to be subject to the Imperial legislature.¹⁾

Russell wrote in a similar strain. "I am disposed to believe that if a Congress or Assembly representing Great Britain and her dependencies could be convoked from time to time, to sit for some months in the autumn, arrangements reciprocally beneficial might be made ... In my eyes, it would be a sad spectacle ... to see this brilliant Empire ... broken up - to behold Nova Scotia, the Cape of Good Hope, Jamaica and New Zealand try each its little spasm of independence; while France, the United States, and Russia would be looking at each, willing to annex one or more fragments to the nearest parts of their dominions."²⁾

But it took sometime to popularise the idea and in the meantime, Goldwin Smith was pointing out how to get rid of the Empire and the Manchester School were lamenting the increasing cost of the colonies which, though granted self-government, not only still depended on the mother country for defence but even imposed duties on her manufactures. However the work of the Royal Colonial Institute, with its motto, "United Empire", began in 1868³⁾ and was followed by the Cannon Street discussions in 1869 to call attention to the advantages of unity and to indicate possible improvements in colonial relations and by the discussion of colonial questions at the meetings of the National Association for the Promotion of Social Science. Frederic Rogers relinquished his position as Permanent Under-Secretary for the Colonies in 1871.

The policy of drift which had engendered the idea of disintegration

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1. Quarterly Review. December, 1853.
 2. Recollections and Suggestions, pp. 200-201.
 3. Proceedings of R.C.I. Vol. XXIV. p. 107. Note 4. The first 22 volumes contain 28 papers on Imperial Unity.

was to stop and some form of federation was regarded as the alternative to separation. The Cannon Street meetings agreed "That the Colonies are a source of great commercial, political and social advantages to the parent country and largely contribute to the influence and greatness of the Empire" and "That, on the other hand, the rights of Imperial citizenship, Imperial supervision, influence and example, and Imperial commerce and resources, promote all the best interests of the colonies, and they on their part are not wanting in a loyal appreciation of their beneficial relationship." Imperial Federation¹⁾ was not mentioned but an Imperial Council of Advice was suggested. In the Contemporary Review for January, 1871, Edward Jenkins proposed an Imperial Parliament to deal with Imperial affairs and at the Westminster Palace Hotel Conference on Colonial Questions in July, 1871, an Imperial Parliament and Executive were advocated. In June, 1872, Disraeli made his speech at the Crystal Palace which marked a change of attitude on the part of the Conservatives, but this move was countered and a great impetus given to the Imperial movement by the support of the Liberal statesman, W.E. Forster, a former colleague of Bright and Cobden, who thus broke the tradition which had identified Liberalism with indifference or hostility to the colonies. In an address delivered in Edinburgh on November 5th., 1875, Forster advocated replacing dependence by association on equal terms and imbuing mother country and colonies with the determination that the Empire²⁾ should not be broken up. In 1884, when the Imperial Federation League was formed, Forster became its first President. The chief questions which had to be considered in connection with the future of the Empire were foreign relations, defence, commerce

1. Labilliere: op.cit., pp. 105 and 106.

2. Ibid. p. 110.

and communications and the political connection but such problems as tariffs, immigration laws, modes of defence and foreign policy were the very ones which tended to sunder the colonies and dependencies.¹⁾

The questions to be answered were "How can the colonies be given an effective share in the control of foreign policy?" and "How can they be induced to pay an equitable portion of the expenses of imperial defence?"²⁾

The necessity for common defence and the advisability of Imperial control of foreign policy was stressed by most writers, and contribution to defence implied a voice in the formulation of policy. Hence the proposals for the representation of the colonies in some Imperial legislative body.³⁾ "A chief avowed object of imperial federation is to secure from the colonies a fair share of men, ships and money for imperial defence, and for those expensive exploits which in their initiation always rank as measures of defence. The present financial basis of imperial defence is one which, on the face of it, seems most unfair; Great Britain is called upon to support virtually the whole cost of the imperial navy and with India, almost the whole cost of the imperial army, though both those arms are at the service of any of our self-governing colonies that is threatened by external enemies or internal disorders."⁴⁾ Whatever form federation took, it would imply compulsory or quasi-compulsory contributions. Labilliere urged the Imperial organization of defence on the grounds of efficiency and economy, such organization to deal with the questions of naval and coaling stations, the strength and disposition of the Imperial army and navy and co-operation

1. Hearnshaw: Democracy & the British Empire. p. 64.

2. Ibid. p. 67.

3. C.W. Eddy in Proceedings R.C.I. Vol. VI. Sir J. Vogel in Nineteenth Century, July, 1877, "Greater or Lesser Britain."

4. Hobson: Imperialism, p. 352.

with and the training of the colonial forces.¹⁾ In the "Nineteenth Century" for March, 1885, the Marquis of Lorne agreed that the Colonies had a right to be consulted in policy which might involve them in war. For example, Canada should be kept informed about discussions with France about fishing rights in Newfoundland. If the colonies were not consulted, they had a right to declare their neutrality in case of war. W.E. Forster believed that if the Home Government took the colonies into its confidence, they would do more towards their own defence. The Australians, for example, would probably do their share in protecting communications and trade routes between their country and other parts of the Empire.²⁾ Colomb wrote frequently on Imperial defence and stressed the necessity for co-operation between all parts of the Empire in order to protect strategic points and keep open the lines of communication, thus setting the fleet free for other operations. Every part of the Empire should contribute in proportion to its ability. "The burden of the protection of our common commerce in war must be shared and justly distributed according to the capacity of the several joints in the Imperial back; they point unmistakably, first, to federal naval possessions; and next, to a federal fleet and federal movable army to support the fleet."³⁾

Parkin pointed out that the mother country bore a disproportionate share of the cost of defence and that her foreign policy was largely determined by colonial considerations. Her naval and military forces were available for the protection of the colonies which, nevertheless, contributed very little towards their upkeep. If there were some definite form of federation, then representation

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1. "The Political Organization of the Empire" in Proceedings of R.C.I., Vol. XII.
 2. Burt: Op.cit., p. 132.
 3. Proceedings, R.C.I. Vols. IV and VIII.

and direct contribution would be put on a satisfactory basis.

Closely connected with defence was the question of trade. In the days before the American Revolution, the commercial relations between the mother country and the colonies were along definite lines but in the 19th Century, the adoption of a policy of free trade seemed to put an end to any possibility of a commercial union within the Empire and when some colonies adopted a policy of protection, the possibility seemed farther off. The Australian Colonies Government Act of 1850 had forbidden the imposition of inter-colonial tariffs but in 1873 these clauses were repealed and protection became the policy of most of the states, while in Canada, Macdonald made it the basis of his policy. At first, the advocates of Imperial Federation did not pay much attention to this problem. Nowadays, much is heard about Imperial Preference but in the 70's, a uniform fiscal policy was not considered necessary, though desirable. The German Empire had been seen to grow out of a Zollverein and by the 80's, the supporters of federation had seen the importance of it. Dilke said,²⁾ "The crux of Imperial Federation lies in this tariff" and he pointed out that for customs purposes the British Empire consisted of a great number of foreign and almost hostile countries. He thought there was little hope of a common system for the Empire as a whole though he urged a customs union³⁾ and a financial union to facilitate the raising of loans.⁴⁾ Labilliere thought that Imperial Federation need not interfere with the policies of the colonies but in time the advantages of an Imperial Commercial policy would be felt and Free Trade might be adopted throughout the Empire. This, he believe, would prevent the

1. Imperial Federation. pp. 20, 82, 92-93.

2. Problems of Greater Britain. p. 475.

3. Ibid. p. 471.

4. Ibid. p. 470.

migration of millions of subjects to the United States, where they created industries to compete with those of Great Britain, and divert them to be colonies.¹⁾ Others advocated Free Trade within the Empire and protection against the rest of the world.²⁾ Some thought a customs union would facilitate federation; others that federation would make a customs union possible. "When Sir Charles Tupper urged upon the late W.E. Forster the advisability of giving the outlying parts of the Empire a better commercial footing than foreign countries, his reply was: 'Well, I am a free trader, but I am not so fanatical a free trader that I would not be willing to adopt such a policy as that for the great and important object of binding this Empire together.'³⁾ The "Times" did not object to a "moderate fence",⁴⁾ but some opposition was due to the fact that Great Britain was still dependent on extra-Imperial sources for some of her food supply. However, it was thought that such preference would stimulate emigration and offer an inducement to the colonies to remain in the Empire, which was something free trade did not do.⁵⁾ Bowles, in the Fortnightly Review,⁶⁾ showed that the mother country and the colonies, supplying each other's needs, were mutually complementary. He proposed raising the same amount from customs as formerly but redistributing the duties so that foreign goods paid a little more and Empire goods a little less. This would have the effect of increasing trade within the Empire, gradually making it self-sufficing. This would form a much stronger and more lasting union because it would be on the basis of a common interest and held together by mutual material dependence. The natural bond of union

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1. Proceedings. R.C.I. Vol. XII.
 2. Little: United States of Britain. Kelsey: Imperial Federation.
 3. Parkin: op.cit., p. 283.
 4. Ibid. pp. 284-285.
 5. Ibid. pp. 285, 288, 291.
 6. May. 1885.

did seem to many to be economic unity, binding the parts together by a common system of free trade and by a common commercial policy towards other powers, but the policy of the colonies in this matter made such a union almost impracticable for some of them had closer commercial ties with foreign countries than with the mother country.

Lord Roseberry, the second president of the Imperial Federation League, thought an Imperial Commercial League would weaken the Empire internally and excite the permanent hostility of the whole world. Speaking in 1897, he said, "A scattered Empire like ours, founded on commerce and cemented by commerce, an Empire also well defended so as not to invite wanton aggression, can and will make for nothing but peace. But an Empire spread all over the world, with a uniform barrier of a Customs Union presented everywhere in the face of every traveller, would be, I will not say an Empire of war,¹⁾ but a perpetual menace, a perpetual incentive and invitation to war"

During the 70's and 80's, many schemes were proposed for the federation of the Empire, some very simple, others complicated. For example, Westgarth proposed that the colonies should be arranged in 2) 5 or 6 groups each sending one member to Parliament. An American writer thought that two senators from every self-governing colony would be sufficient.³⁾ Most writers saw the necessity for preventing an increase in the business of the House of Commons or making its membership too unwieldy. They did not wish colonial representatives to take part in local affairs nor the British members to interfere with purely colonial questions. Lord Roseberry, for whom Imperial Federation was the dominant passion of his public

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1. Crewe: Lord Roseberry, p. 542.
 2. Proceedings, R.C.I. Vol. III.
 3. Burt: op.cit., p. 149.

1)
 life, suggested in 1884 the inclusion of colonial representatives in the House of Lords, though later he changed his mind and said that colonial representation in the House of Lords, the House of Commons or on the Privy Council was impossible. He thought periodical conferences were better with perhaps colonial ministers as Privy Councillors and colonial judges on the judicial committee of the Privy Council. 2)
 Another writer suggested colonists as life peers. 3)
 Wicks agreed with this because the House of Lords had only limited power over money bills. Moreover, colonial legislation might be submitted to the House of Lords before receiving the Royal Assent, thus bringing about some uniformity between colonial and Imperial legislation. 4)
 Jenkins advocated a Senate or Parliament of representatives from every province of the Empire to accomplish which it would be necessary to grant Home Rule to Ireland. 5)
 A prolific writer on the subject was Labilliere who said that a truly Imperial Parliament would have to be created, leaving the existing Parliament to concern itself with the affairs of the United Kingdom. 6)
 A Council of Empire might be advisable first in order to prepare a federal constitution. 7)
 This Imperial house would be elected either by the people themselves or by the legislatures of the Empire. The former was preferable because the decisions of the house would then be more the decisions of the people and it could impose taxation instead of requiring the legislatures to do so for it. A second chamber would be advisable and this he proposed to divide into three sections. One section was to consist of hereditary peers of the

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1. Crewe: op.cit. p. 311.
 2. Ibid: pp. 313, 316.
 3. Burt: op.cit., p. 150.
 4. National Review. September. 1886.
 5. Contemporary Review. January 1871.
 6. Proceedings. R.C.I. Vol.VI. "Permanent Unity of the Empire."
 7. Burt: op.cit. p. 156.

United Kingdom, half nominated by the Crown and half by the House of Lords. The second group was to consist of hereditary peers created in any part of the Empire for this purpose and the third of life peers from the colonies nominated by the colonial governments. This central government would have power to legislate on the following subjects: defence, taxation, foreign affairs, crown colonies, naturalization, universities. Local self-government was to remain untouched. The following might be subject to either Imperial or provincial legislation: marriage laws, domicile, wills, coinage, copyright and patents, railways and telegraphs, emigration, reciprocity and final courts of appeal. Labilliere summed up as follows:

"Common defence involves common expense; common expense and danger confer the right of common control of foreign affairs, from which danger may arise, and of the forces required for defence; common control must be ^{by} common representation, common representation by Imperial Federation."¹⁾

Young's collection of letters, published as "Imperial Federation", postulated disintegration as the only alternative of federation.²⁾ Therefore a new Imperial Parliament was needed, containing representatives in equitable proportion from every part of the Empire to manage and settle Imperial questions.³⁾ There would be an Imperial cabinet to deal with Imperial affairs just as there was a local cabinet to deal with local affairs. Vogel thought it best to start with a Board of Advice to the Secretary of State for the Colonies.⁴⁾ The next step would be to constitute a Federal Legislature, with the House of Lords as one chamber, colonists being eligible for peerages. The other chamber could be the House of

1. Op.cit. Proceedings. R.C.I. Vol. XII.

2. p. XII.

3. Letter VII¹/₂.

4. Nineteenth Century. July 1877. "Greater or Lesser Britain."

Commons with the addition of colonial representatives or a specially elected house. An article in the "Westminster Review"¹⁾ advocated local parliaments for England, Scotland and Ireland and the elevation of the existing parliament to the position of an Imperial Parliament, containing representatives popularly elected by all parts of the Empire and dealing with purely Imperial affairs. The House of Lords should include twenty life peers to represent the colonies and the Bishops would be withdrawn. The Ministry was to be selected from both houses and the Parliament, which was to sit annually in London, should continue for five years unless dissolved before. This Parliament was to provide for the maintenance of the Royal Family, to control the army and navy, foreign affairs, general relations between the parts of the Empire, marine and shipping affairs, customs and finance, post office and superior justice. Second chambers throughout the Empire might be abolished as the Royal veto would afford sufficient check on legislation. The Imperial Government would take over all public debts of the Empire as well as other Imperial burdens and, to meet these, would collect customs in every part of the Empire. Four-fifths of the debt charges would be borne by the Imperial Government in return for assuming the greater part of the British excise as Imperial revenue, the local governments to bear the remaining fifth until the growth of the revenue from the customs enabled the Imperial Government to bear it all. Subsidies might be paid to colonies to make up for the loss of revenue incurred in giving up the customs, while protectionist colonies might be allowed to impose surplus duties. A Supreme Court of Appeal with judges appointed by the Imperial Government was to be established in the chief divisions of the Empire.

In order to secure co-operation in such matters as foreign

1. April. 1879. "Federation of the English Empire."

1)
policy and tariffs, Kelsey proposed to abolish the British Parliament substituting a smaller body with the same authority in which all parts of the Empire were represented and to extend local government. The United Kingdom was to be divided into a number of grand municipalities which were to be represented in the Imperial Senate along with the self-governing colonies. He also proposed the representation of the native races of the Empire, a point on which there was considerable difference of opinion amongst the Imperialists of the time.

2)
Sir Samuel Wilson, wishing to see the whole Empire share in the cost of maintaining the army, navy and diplomatic services, proposed an Imperial Parliament of two houses to deal with Imperial affairs while national and colonial parliaments legislated for each nation or colony. Each house was to consist of one hundred members, the lower house being elected by all the lower houses, the upper house by all the upper houses, of the Empire. This was not to be established immediately and meanwhile there would be a Council consisting of the Agents-General, followed by the extension of the use of Grand Committees of the British Parliament to deal with local questions, their decisions having the force of law unless declared ultra vires. Next, colonial representatives might be admitted to both houses but would be eligible to sit only on Imperial committees.

3)
Guthrie proposed national parliaments for England, Scotland Ireland and Wales to take the place of the House of Commons, and instead of the House of Lords, an Imperial Parliament of elected representatives from the whole Empire. The latter would legislate

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1. Imperial Federation.
 2. Nineteenth Century. April. 1885.
 3. Home Rule and Federation.

for the control of the army, navy and defence generally, Imperial revenue and expenditure, creation and management of courts of appeal, and foreign affairs and would exercise a veto over the legislation of the national parliaments, if it were declared an invasion of personal rights and liberties or a usurpation of the Imperial prerogative. The Imperial Parliament, which was to meet in London, would consist of two houses, the upper representing the countries of the Empire, five members being elected by each of the large divisions, and one by the smaller colonies. For the lower house, the colonies were to elect representatives in proportion to their population.

Federation was regarded as an ideal which it would take a long time to attain. Intermediate stages would be necessary and proposals were made for setting up a council representing the Empire in order to advise the British Government on Imperial questions. "The public recognition of the right of consultation, the formal summoning of such conferences by the Head of the State, would of itself be a signal proof to the outside world of the reality of national unity, a decisive step towards its complete attainment."¹⁾ An article in the "Westminster Review"²⁾ suggested a Council presided over by a Secretary of State and vested with power to appoint governors and deal with tariffs, emigration and waste-lands. The parts of the Empire would be represented roughly in proportion to population. The existence of such a council might induce the colonies to contribute towards the cost of the defence of the Empire. Agents General were suggested as the nucleus of such a council;³⁾ another writer suggested ex-governors,⁴⁾ while several suggested the appointment of

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1. Parkin: Imperial Federation. p. 305.
 2. July, 1870. "Future of the British Empire."
 3. Proceedings R.C.I. Vol. VI. p. 24.
 4. Young: op.cit. Letter IX.

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Secretaries of State for each group of colonies.

In his paper at the Social Science Congress in Glasgow, 1874, Eddy proposed to revive the Committee of the Privy Council for Trade and Plantations to give advice on Imperial matters. Each division of the Empire and each self-governing colony or group should be represented on it in proportion to its population. The Agents-General could represent the colonies but as only those who were summoned would attend, the colonies might change their representatives as often as they liked. The work of the Committee would be confined to giving advice mainly on defence and foreign policy. Lord Grey developed this idea in an article in the Nineteenth Century for June, 1879.

It was probably the enthusiastic Labilliere who first thought of forming a society to promote Imperial Federation. In 1884, he gathered together a committee which obtained the support of W.E. Forster, and arranged a conference at Westminster Palace Hotel, July 29th, 1884. Forster was in the chair and the conference was attended by prominent men of all parties as well as a great number of colonials. Seeley, whose "Expansion of England" had created a stir the year before, gave it his blessing. It was soon evident that there was a great diversity of opinion on the subject of closer relations between the mother country and the colonies. A resolution submitted by W.H. Smith ²⁾ read: "That the political relations between Great Britain and her colonies must inevitably lead to ultimate Federation or Disintegration. That in order to avert the latter, and to secure the permanent Unity of the Empire, some form of Federation is indispensable." ³⁾ There was much opposition to the statement that the only alternative to federation was separation, so

1. Proceedings. R.C.I. Vol. VI. p. 54.

2. First Lord of the Admiralty in Disraeli's ministry, 1877-1880.

3. Bodelsen: op.cit. p. 206.

a compromise was agreed on and the meeting unanimously agreed "that in order to secure the permanent Unity of the Empire, some form of federation is essential." The Imperial Federation League was formed at an adjourned meeting on November 18th, 1884. The objects of the League were expressed in three resolutions: 1. That the object of the League be to secure by Federation the permanent unity of the Empire. 2. That no scheme of Federation should interfere with the existing rights of Local Parliaments as regards local affairs. 3. That any scheme of Imperial Federation should combine on an equitable basis the resources of the Empire for the maintenance of common interests, and adequately provide for an organized defence of common rights.¹⁾

The League had the support of influential men at home and abroad irrespective of party, and the Press gave it plenty of publicity but there were elements of weakness in its ranks from the start. Although the public were by now almost unanimous in the desire to maintain the colonial empire, there were differences of opinion as to how this should be done and there was a reluctance to allow the colonies a share in the foreign policy of the Empire. Some members favoured a complete federal system; others were in favour of less comprehensive forms. With some, defence was the most important aspect; with others, trade. The colonial members were afraid that the powers of self-government might be reduced. The Committee recommended that "they should at present avoid embarrassing the question by attempting specifically to lay down the details of a Federal organization for the Empire, neither should they prescribe the time within which the establishment of such a Federation should take place."²⁾

Branches were formed in different parts of the Empire and a

1. Bodelsen: op.cit. p. 207.
2. Burt: op.cit. pp. 219-220.

monthly journal, "Imperial Federation," was begun in 1886. In 1889, Parkin was sent to preach its gospel in Australia and New Zealand but received little encouragement there. In Australia, opinion was mostly against Imperial Federation. Queensland was suspicious of what was termed "naval tribute;" Parkes and others in New South Wales were unfriendly, while Victoria was suspicious because Lord Roseberry, one of the League's prominent members and later its President, was in favour of Home Rule for Ireland.¹⁾ The Australian colonies recognised that the influence of England dominated the Empire and were willing that it should be so, but they were not willing to set up a constitution which would make this domination definite and permanent.²⁾ They were unwilling to surrender to a federation and preferred something like an intimate alliance.

The Montreal branch advocated a policy of preference and so added another source of division.

The League kept Imperial questions before the public and the Colonial and Indian Exhibition held in London in 1886 was largely due to its efforts. A conference on colonial subjects took place at the same time. It was chiefly through the efforts of a number of colonial members that a deputation from the League waited on Lord Salisbury on August 11th, 1886, and asked him to call a conference or appoint a Royal Commission, to be composed of accredited representatives of the United Kingdom and of each of the self-governing colonies, for the purpose of suggesting some practical means whereby concerted action might be taken (a) for placing upon a satisfactory basis the ports and the commerce of the Empire in time of war, (b) for promoting direct intercourse, commercial, postal and telegraphic, between the

1. Dilke: op.cit. p. 49.

2. Wood: The Constitutional Development of Australia. p. 239.

several countries of the Empire in time of peace and any other means for securing the closer federation or union of all parts of the Empire.¹⁾

The result of this request was the first Colonial Conference, 1887, at which, however, Imperial Federation was not discussed.

When Lord Roseberry became President, he aimed at making the Colonial Conference a permanent institution and securing at its meetings discussion on the subject of closer union. He did not favour a definite scheme of federation. He said that federation did not imply a written constitution but an Empire of which even the most distant parts are closely leagued together for common objects under a supreme head. It existed already, he said, and it was their task to carry this idea to its fullest possible degree of development.²⁾

For a long time, the League refrained from officially formulating a scheme. Forster vaguely defined Imperial Federation as "such a Union of the Mother Country with her Colonies as will keep the British Empire one state in relation to other states, through the agency of (1) an organisation for common defence and (2) a joint foreign policy."³⁾ In fact the term was used loosely for any scheme of government which aimed at the unity of the Empire, though it should have been restricted to the conception of an Imperial Parliament with an Imperial Executive responsible to it, directly representing the people of the self-governing parts of the Empire and exercising certain powers over them, e.g. control of foreign policy, defence, and taxation for these purposes.⁴⁾

But on June 17th, 1891, a deputation again waited on Salisbury

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1. Imperial Federation August 1886.
 2. Crewe: op.cit. p. 309.
 3. Bowen: "The Federation of the British Empire" Proceedings R.C.I. Vol. XVII.
 4. H.D. Hall: op.cit. p. 59.

to request the convocation, at the earliest possible date, of a conference of the self-governing colonies to consider the question of securing to them a real and effective share in the privileges and responsibilities of a United Empire, under conditions which were consistent with the existing political constitution of the United Kingdom, and with the self-government possessed by the colonies.¹⁾

Salisbury replied that he could not summon such a conference unless he had a scheme to place before it and asked the League to submit a definite proposal.²⁾ A committee of the League therefore drew up a scheme which was approved by the Council on November 16th, 1892.³⁾

It stated that a Council of the Empire in which all parts were represented was essential. The Australian and South African colonies would have to be federated and each federation together with Canada, be represented in London by a member of their governments. These representatives would then be available to consult with the Cabinet when matters of foreign policy affecting the colonies were under discussion. The Council would, therefore, consist of the Prime Minister, the Secretaries of State for Foreign Affairs, War, the Colonies and India; the First Lord of the Admiralty, the Chancellor of the Exchequer together with the representatives of the three great dominions. The functions of the Council were not defined or limited so that its sphere of action might be extended as the need arose. Its chief duty would be to deal with Imperial defence and supervise the appropriation of the money provided for this purpose by the United Kingdom and the dominions. The method of raising these contributions was to be left to the United Kingdom and the dominions themselves at first but later a uniform method might be

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1. Imperial Federation. May. 1891.
 2. He himself suggested a Zollverein and a Kriegsverein, Imperial Federation. July 1891.
 3. Imperial Federation. December 1892.

devised after discussion at another Colonial Conference. This scheme was still vague. It did not state the subjects with which the Council would deal nor the extent of the powers of the Council, which was probably to be only consultative. It was equally indefinite on the question of contributions to defence and still favoured a special Colonial Conference for drawing up a scheme. Amongst its minor recommendations it hinted at a preferential tariff so that when the report was presented to Salisbury's successor, Gladstone, on April 13th, 1893, the old statesman at once declared his opposition to it and adversely criticised most of the proposals. After this rebuff, the committee decided that as the report represented the maximum of political opinions and principles on which the numerous and diverse elements of the League could agree, the operations of the League should come to an end. Deadlock had been the result of trying to embody so many different opinions in the League and the question of Imperial preference seems to have been one of the greatest difficulties. Consequently on November 24th, 1893, it was decided to dissolve the League. The period of theorising had ended and practical Imperialism now came to the fore.

In 1890, Dilke published another work, "The Problems of Greater Britain," and the difference between this and "Greater Britain," published in 1868, indicates the change that had taken place in public opinion. Dilke no longer wrote of separation as something to be desired but as a danger which might arise. He now found that Great Britain had plenty to gain from her Colonial Empire. Economically, the colonies maintained a large trade with the mother country and afforded fields for investment.¹⁾ Morally, they widened the outlook of the people and gave Great Britain prestige amongst the

1. The Problems of Greater Britain. pp. 696-697.

other great nations of Europe. He saw that the rise of colonial nationality would prevent any hard and fast scheme of Imperial Federation and that alliance and co-operation on subjects of common interest, such as defence and communications, would be better.¹⁾

Seeley's "Expansion of England", published in 1883, was a popular contribution to the literature of Imperialism. Seeley held that the study of history should enable one to formulate a policy for the future and the greatest question of the future was what was to become of the Empire and whether it would go the way of the first colonial Empire.²⁾

The mother country and the colonies derived mutual benefit from their connection but the question was not decided by consideration of profit and loss. The colonists were merely Englishmen across the sea and they took the rights of Englishmen with them. Colonies should not be treated as estates from which the mother country could make a pecuniary profit. If they were treated so, their allegiance would be highly precarious and they would escape as soon as possible.³⁾ The colonies were communities formed by the overflow of another community and there should be no talk of separation.⁴⁾ The unity of the Empire was possible and size was no bar to it.⁵⁾

Seeley would have nothing to do with either the bombastic or the pessimistic schools of thought.⁶⁾ The former gloried in the size of the Empire and the heroism of its founders and believed its maintenance a point of honour. The latter considered the Empire to be the result of aggression and rapacity; it was useless and dangerous and should be abandoned as soon as possible. Seeley

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1. The Problems of Greater Britain. pp. 629, 636-638.
 2. Op.cit. p. 17.
 3. Ibid. p. 176.
 4. Ibid. p. 178.
 5. Ibid. pp. 185-186.
 6. Ibid. p. 340.

believed that all unions existed for the good of their members and should be maintained as long as they could be without ceasing to be beneficial.¹⁾

He scarcely mentioned Imperial Federation but favoured an organisation for making the whole force of the Empire available in time of war.²⁾

He denied that colonies invariably separate at maturity. The first Empire had the elements of disruption in it because it was founded by those who sought refuge from political and religious oppression and who, therefore, had no love for the mother country. But this was not the case with the second Empire which was bound by ties created by trade, migration, improved communications as well as by race, religion and institutions.³⁾ In this, he overlooked the development of colonial nationalism. An Australian considers himself an Australian first and foremost, and not an Englishman overseas. Nor is religion a very strong tie in the Empire. Finally, he stated that England would be dwarfed into insignificance if she lost her colonial Empire.

Although Seeley did not advance any new or startling schemes, his work was a well-written statement of the case for keeping the colonies. His rebuke to the bombastic Imperialists and to the pessimists was timely and put a sane view of the question before the public. Altogether, Seeley's work gave a great impulse to the Imperial Federation movement.

One of the best-known writers on the colonies and one of the earliest leaders of the reaction against the colonial policy of the Liberals and the laissez-faire policy of the Manchester School was Froude. In his Rectorial Address at St. Andrews (March 19th, 1869) he spoke on the empire and expressed his faith in its future. During

1. Seeley: Op.cit. p. 341.

2. Ibid. p. 346.

3. Op.cit. p. 61.

1870-1871, he wrote several articles on colonial questions for Fraser's Magazine of which he was editor and these were later published as "Short Studies on Great Subjects." Two of the best are "England and her Colonies" and "England and her Colonies Once More" which appear in the third series. Froude seems to have been influenced by Carlyle and so we find him stressing the advantages of emigration. In "England and her Colonies", he lamented the fact that so many British subjects migrated to the United States and so helped England's greatest rival. They had no desire to leave home but conditions forced them to and so they left with no love for the mother country.¹⁾ He urged that the colonies should be used as fields for emigration so that the Empire could support an agricultural population which was so necessary to counteract the race deterioration due to industrialism.²⁾ He blamed the British Government for giving the colonies complete control of their lands, thus closing them to the free reception of England's surplus population.³⁾ He attacked the Manchester School for regarding the colonies merely as customers for English manufacturers⁴⁾ and the Colonial Office for its inefficient management of distant dependencies.⁵⁾ It was the day of large Empires and it was essential that the British Empire should not disintegrate.⁶⁾

In his second essay, he returned to the attack on Gladstone and accused Granville, the Colonial Secretary, of agreeing with the Prime Minister that the colonies were sources of weakness, that they should be left to themselves and that efforts to develop them or transfer to them Great Britain's surplus population would be wasted.

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1. Short Studies. p. 149.
 2. Ibid. p. 164.
 3. Ibid. p. 172.
 4. Ibid. p. 160.
 5. Ibid. p. 155.
 6. Ibid. p. 175.

"The entire drift of the action of the Colonial Office points to a desire on our part that as soon as possible they should rid us of all responsibility for them. Our statesmen avow in their conduct what¹⁾ in words they are still compelled to disclaim!" The government encouraged the confederation of Canada and of the Australian colonies as steps to independence. He held that the best means at that time of attaching the colonies to the mother country was by feeding them intelligently with emigrants who left England grateful for the assistance which she had given them. But the Government was content to let emigration flow where it liked and Goschen said that any attempt to divert it would displease the United States.²⁾ The only stable bond, he believed, was mutual goodwill.

On November 5th, 1875, he addressed the Edinburgh Philosophical Institution on "Our Colonial Empire" and gave a good statement of the arguments for closer union, but between 1874 and 1880 came the unfortunate South African interlude during which he advocated the abandonment of the British colonies in South Africa except for a garrison to protect the naval station at the Cape.

But in the 80's he became a supporter of the Imperial Federation League and, in 1886, he published "Oceana". This book was the result of a hurried trip to Australia and New Zealand during which he saw some small sections of those countries - parts by no means typical of the whole - and met a few people, mainly officials. Although much of the book was based on superficial knowledge or on none at all, his opinions on the colonial problem as a whole are of interest. Again he asserted that the unoccupied land should never have been handed over to the control of the colonial governments but kept for the purposes of migration. He repeated his opinion that self-governing constitutions had been given in order to facilitate

1. Op.cit. p. 293.
 2. Ibid. p. 295.

independence and that the sooner it came, the better the Home Government would be pleased.¹⁾ But he pointed out that the colonies were necessary for the very existence of Great Britain. Trade followed the flag and if Great Britain were to compete successfully with other countries, the colonies must be kept.²⁾ Moreover, the mother country had no right to disown the colonists who were merely Englishmen overseas.³⁾ As to how to maintain the connection, he said the question was not urgent and he had no ideas to put forward.⁴⁾ Suggestions should come in the first place from the colonies. He was opposed to a Federal Parliament consisting of representatives from the Empire and dealing with foreign and colony policies as he said the House of Commons would never consent to it.⁵⁾ A Council of Agents-General to advise the Colonial Secretary would be useless because it would have no authority. The Agents-General were not elected by the colonies and they soon got out of touch with colonial feeling. He favoured the proposal to include colonial life-peers in the House of Lords but he thought that they also would soon lose touch with the colonies and the idea would not be favoured in the colonies.⁶⁾ A Zollverein would be of no use at all.⁷⁾ The strongest bonds were those of sentiment. The Home Government should treat the colonies with sympathy and understanding and so promote confidence.⁸⁾ They should have a share in the defence of the Empire if they expressed a wish for it; colonists should be entitled to share in the honours which the sovereign bestowed, to membership of the Privy Council and to careers in the army and navy.

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1. Oceana. p. 6.
 2. Ibid. pp. 10-12. 150. 174.
 3. Ibid. p. 332.
 4. Ibid. p. 79.
 5. Ibid. p. 190.
 6. Ibid. pp. 187-190.
 7. Ibid. pp. 193. 222.
 8. Ibid. pp. 306-307.

"Oceana" was reviewed favourably in the press and had a large sale. Froude had seen comparatively little of the colonies he visited. He did not get into touch with the people themselves whom he despised and was very far astray in some of his observations and prophecies. He failed to notice the existence of colonial nationalism, the greatest obstacle to Imperial Federation. Nevertheless, the book carried some weight amongst the writings on this subject.

As for other writers, the influence of Tennyson's poetry should not be forgotten. "The Laureate, Tennyson, naturally one of the most bellicose spirits that were ever inspired by the muse, who had thundered the wrath of Europe against Russia and appealed in trumpet tones for volunteers against France, passed on easily to 'hands all round', 'one life, one flag, one fleet, one throne,' and finally to ¹⁾ that jubilee paean of science, commerce and imperial expansion."

Kipling, too, was at the height of his influence between 1887 and 1897. His stories and poems of the builders of the Empire, silent, strong men performing wonders or enduring drudgery in an unconcerned, matter-of-fact way in the corners of the far-flung colonies and dependencies, their uncomplaining self-sacrifice for the little widow at Windsor, appealed to the imagination of the clerks, shop assistants and factory workers in the gloomy industrial cities at home and made them conscious and proud of the Empire.

The celebration of the Queen's two jubilees strengthened and increased the enthusiasm for empire, while the aged Queen herself, more an institution or a legend to her subjects overseas, was by no means the weakest of the ties of the Empire.

Writing at the beginning of the 20th Century, Hobson looked back over the preceding century and summed up his opinion on colonial policy in the following criticism: "The statement in the passage ²⁾ which we quoted, that underneath the fluctuations of our colonial

1. Wiggfield-Stratford: op.cit. p. 1161.

2. Morris: The History of Colonisation. Vol. II. p. 80.

policy throughout the nineteenth century lay the 'fixed rule' of educating the dependencies for self-government, is so totally and manifestly opposed to historical records and to the testimony of loyal colonial politicians in all our colonies as to deserve no further formal reputation. The very structure of our party government, the ignorance or open indifference of colonial ministers of the elder generations, the biassed play of colonial cliques and interests reduced the whole of our colonial government for many decades to something between a see-saw and a game of chance; the nearest approach to any 'fixed rule' was the steady pressure of some commercial interest whose political aid was worth purchase. That any such 'beneficial spirit' as is recorded consciously presided over the policy applied to any class of colonies during the larger half of the nineteenth century is notoriously false. To those statesmen to whom the colonies were not a tiresome burden, they were a useful dumping-ground for surplus population, including criminals, paupers and ne'er-do-wells, or possible markets for British trade. A few liberal-minded politicians, such as Sir. W. Molesworth or Mr. Wakefield, regarded with sympathetic interest the rising democracies of Australasia and Canada. But the idea of planning a colonial policy inspired by the motive of teaching the arts of free representative self-government not merely was not the 'fixed rule', but was not present as a rule at all in any responsible Colonial Secretary in Great Britain.¹⁾

Another writer on colonial policy said "One may safely say that British colonial policy has usually been a succession of shifts and expedients, of adjustments to circumstances as they arise, and of suiting measures to existing events. British colonial policy, if

1. Imperialism, pp. 123-124.

it means anything at all, has been the outcome and not, in the shape¹⁾ of pre-conceived plans of action, the governor of events." To this might be added Egerton's words, "Be this as it may, from the coming of Mr. Chamberlain to the Colonial Office, in 1895, there was undoubtedly a distinct policy at work. That policy was, in the case of the self-governing portions of the Empire, to welcome and encourage any movement towards imperial unity, that should not impair, or seem to impair, the foundations of the most complete Colonial autonomy. In the case of the Crown Colonies and Protectorates, the policy was to attempt, on more scientific lines to develop those resources of the Empire which had been hitherto, for the most part, too much neglected."²⁾

Chamberlain's interest in colonial affairs seems to date from about 1885. He was probably influenced by Seeley and he always acknowledged his original debt in Imperial affairs to his friend Dilke, the author of "Greater Britain".³⁾ One of his earliest public utterances on the subject was at Birmingham on January 5th, 1885, when he said, "It does not need a prophet to predict that in the course of the next half-century, the Australian colonies will have attained such a position that no Power will be strong enough to ignore them and for my part, I cannot look with any confidence on any settlement which may be made in those regions in defiance of their united opposition ... But our fellow-subjects may rest assured that their liberties, their rights and their interests are as dear to us as our own; and if ever they are seriously menaced, the whole power of the country will be exerted in their defence."⁴⁾

On January 31st, 1886, he surprised Gladstone by asking for the Colonial Secretaryship in the ministry which was just being formed,

1. de Kiewiet. op.cit. p. 110.

2. British Colonial Policy in the 20th Century. p. 1.

3. Garvin: Life of J. Chamberlain. Vol. 1. p. 434.

4. Ibid. Vol. 1. p. 542.

but he was refused. Granville, a man of over 70, who had been at the Foreign Office and mishandled Anglo-German relations, was put in charge of the Colonial Office. In spite of this, Chamberlain maintained his interest in the colonies, especially in Imperial Federation. In a speech in Toronto (December, 1887), a speech which Garvin said killed the idea of Canada's secession from the Empire and union with the United States, he said, "It may yet be that the federation of Canada may be a lamp lighting our path to the federation of the British Empire Let us do all in our power to promote it.¹⁾ He believed in standing up to Bismarck whenever in the course of his policy of colonial expansion the Prussian became brusque and domineering, and in trying to pull the British dominions together.²⁾ In 1889, he began to advocate imperial preference as a means of effecting unity.³⁾

At last in 1895, Salisbury gratified Chamberlain's wish and he became Secretary of State for the Colonies. A new chapter in Imperial history began. The colonials were thrust from their provincial obscurity into the full limelight and began to be treated with a respect and sympathy hitherto unknown. There was no more talk of separation. Chamberlain was a fighter and a visionary. He believed that the future lay with the great empires and that there was none greater than the British Empire. The extension of British rule meant the extension of happiness.⁴⁾ "The imperial federation movement which he headed was never widely popular. The imperialists who supported it were either too idealistic and impractical, on the one hand, or else too arbitrary on the other. Possibly as a class they were too wealthy, too cultured, too well educated in a

1. Garvin. op.cit. Vol. II. pp. 334-335.

2. Ibid. Vol. II. p. 448.

3. Ibid. Vol. II. p. 468.

4. Wingfield-Stratford: op.cit. p. 1184.

conventional sense, to feel at one with their own countrymen whose lives, by very force of circumstance, had been more roughly spent in making civilized the wilderness. The enemies of federation spoke of it as 'based upon racial instincts rather than community of interests, upon sentiment rather than reason,' and as appealing strongly 'to that very large class of persons to whose minds military glory and world dominion are masters of chiefest importance.'¹⁾"

At any rate, Chamberlain was soon recognised everywhere as the dynamic man of the new Imperialist era.²⁾ He found the Colonial Secretaryship one of the minor posts in the Cabinet. He soon made it one of the most important.

In 1884, Merriman of South Africa, had said that this "Radical Imperialist" would make an ideal Colonial Secretary³⁾, and now he had his opportunity as the leader of "democratic Imperialism"⁴⁾. The Colonial Office had never been regarded as a position of first rank and it had a bad name overseas, but Chamberlain's appointment was welcomed in the colonies. His Under Secretary was Lord Selborne who under Chamberlain's policy of "daring delegation" later distinguished himself in South Africa. The Colonial Office was transformed in more ways than one. When Chamberlain took office, it was illuminated by candles but he soon replaced them with electric light. "We may say that in many things concerning the relations of the Colonial Office with the Empire, he superseded candles by electric light."⁵⁾

"Mr. Chamberlain had kept his own counsel, and the appointment came as a surprise (People) were amazed when he chose a position which had never yet been filled by one of the recognised party leaders. The Colonies were gratified by this striking recognition

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1. W.P. Hall: op.cit. p. 165.
 2. Garvin. op.cit. Vol. III. p. 3.
 3. Pall Mall Gazette. December, 1st. 1884.
 4. Garvin: op.cit. Vol. III. p.4.
 5. Ibid. Vol. III. p. 15.

of their growing importance in the Empire, while people at home were stirred with curiosity

The country was not left long in doubt Mr. Chamberlain chose the Colonial Office for the best of all reasons - he had a policy, or at any rate an idea, and he was determined upon carrying it out. His energetic spirit soon made itself felt to such a degree that his opponents began to sneer at what they described as his egotism. 'He actually believes that he has discovered the Colonies as Columbus discovered the new world!' But though there was little enough justification for the sneer there was more than a grain of truth in the alleged discovery. Mr. Chamberlain had at least discovered the enormous present importance of the Colonies in the Imperial Family, and this was a fact which ambitious statesmen had hitherto overlooked. Or, if they had not overlooked it, at any rate, none of them had yet been found ready to risk his reputation in such an uncharted ocean.¹⁾

Foreign affairs and colonial affairs were at this time more and more entangled in most parts of the world and the eight years of Chamberlain's period of office, the second longest term since the beginning of the 19th Century, was an anxious time for the Government of Great Britain. Salisbury's Government had to deal with trouble in Egypt and the Soudan, the activities of the French in Equatorial Africa, the Venezuela boundary dispute and its effect on relations with the United States, the repercussions of the Armenian massacres, the eccentricities of the German Emperor, the Boxer Rebellion and the troubles in South Africa. But such things as President Cleveland's manifesto, Great Britain's unpopularity after the Jameson Raid and the Kaiser's telegram to the Boer republics only emphasised the importance of the closer unity of the Empire which he hoped to

1. The Round Table. May 1911. p. 287.

further. He wished to develop the resources and commerce of the dependencies with the aid of the British Treasury. "We are landlords of a great estate; it is the duty of a landlord to develop his estate."¹⁾ For the self-governing colonies he hoped to establish a Zollverein but the plan was rejected by the Colonial Conference of 1897 and later he gave up the idea in favour of a preferential tariff.

In November, 1895, after consultation with the High Commissioner for Canada and the Agents-General, he addressed a circular to "Governors of Colonies on the Question of Trade with the United Kingdom." Owing to increasing foreign competition he wished to secure as much of the trade of the Empire as possible for British producers and manufacturers, as well as new openings for the products both of the United Kingdom and of the colonies. His business experience manifested itself in the detailed information that he required and the suggestions he made.²⁾ His consultation with the representatives of Canada and the other self-governing colonies was regarded as the first step on the Imperial side to bring about Federation. Chamberlain also encouraged the idea of "All-Red" lines of transport and communication, such as a fast steamer service between Canada and Great Britain and a cable between Canada and Australia. He proposed to the Cabinet that the Government's income from its Suez Canal shares should be used for developmental work in the Crown Colonies and dependencies but the arguments of the Chancellor of the Exchequer defeated this.³⁾

Speaking at the Canada Club on March 25th, 1896, Chamberlain said that the greatest obligation of the members of the Empire was defence and their greatest common interest was Imperial trade. They

1. Garvin. op.cit. Vol. III. p. 19.
 2. Ibid. Vol. III. pp. 23-25.
 3. Ibid. Vol. III. pp. 176-177.

were closely connected and one could not be dealt with without the other. He wished to see a true Zollverein of the British Empire with free trade between all its parts and duties on foreign imports. If such a Zollverein were achieved, a Council of Empire might follow.¹⁾ At home, many Unionists thought this speech was epoch-making; others thought it Utopian, while the Colonies were decidedly averse to giving up their policies of protection. In June of the next year, he spoke of it again at a Congress in London of the Chambers of Commerce of the Empire. If a commercial union were established, an Imperial Council and common arrangements for defence would come of themselves. Empire free trade was the only policy that would bring about Imperial Federation.²⁾ When the Colonial Conference of 1897 rejected this idea, he pinned his faith to Imperial preference.

When the premiers of the self-governing colonies accepted the Government's invitation to attend the Queen's jubilee as guests of the State, another Colonial Conference was inevitable. In Chamberlain's words, it was to be "an interchange of ideas about matters of common and material interest, about closer commercial union, about the representation of the colonies, about common defence, about legislation, about other questions of equal importance which cannot but be productive of the most fruitful results."³⁾ One of the most important results of this conference was the decision to meet at regular intervals in the future, a decision which increased the hope of ultimate federation.

Chamberlain regarded the federation of the Australian and South African colonies as a step which would have to be taken before closer

1. Garvin: op.cit. Vol. III. pp. 179-182.
 2. Ibid. Vol. III. p. 182.
 3. Ibid. Vol. III. p. 185.

imperial union could be effected and, in 1900, he introduced and carried through the Bill for Australian Federation - "the greatest constructive event in the general history of the Empire since Canadian Federation a generation before."¹⁾ His handling of the situation in South Africa after the Jameson Raid and his magnanimous attitude to Rhodes increased his popularity throughout the Empire.²⁾ He was sympathetic towards the nationalist aspirations of the colonies. He supported Australia and New Zealand in their opposition to German expansion in the Pacific and for a long while refused to consent to British withdrawal from Samoa because it was on the route of steamers trading between Australia and New Zealand and North and Central America, though he would have faced the displeasure of New Zealand if Germany had been willing to cede New Guinea to the Australian colonies. In the end, after international feeling had run high, the British withdrew but Chamberlain prophesied that the Australians would one day square the reckoning in the South Seas.³⁾ When war in South Africa was imminent and offers of troops came from the colonies, the War Office would have quenched their ardour but for Chamberlain. The professional soldiers did not want the colonists, but if they had to come, they were to be as few as possible and to be merged with the British regiments so that they would not retain their special identity as colonial troops. To crown all, came Buller's advice that infantry would be most, cavalry least, serviceable. Fortunately, the colonial contingents took part as such and so strengthened the tie between the colonies and the mother country.⁴⁾ Chamberlain's tactful handling of Canada secured her participation in the war on a national basis and so he was able to demonstrate to the Empire's unity of purpose and action.⁵⁾

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1. Garvin: Op.cit. Vol. III. p. 556.
 2. Ibid. Vol. III. pp. 103, 123.
 3. Ibid. Vol. III. pp. 245-247, 324-343.
 4. Ibid. Vol. III. p. 528.
 5. Ibid. Vol. III. pp. 529-533.

The support of the colonies was no doubt due in a large degree to the change in the official attitude of the mother country to them during the last few years, a change due to Chamberlain himself. "The inrooting of the idea of a common purpose, a common destiny, and if need be, a common sacrifice which must ultimately find embodiment in common machinery to give force to its expression, dates as far as England is concerned, from the closing years of the 19th Century"¹⁾ British Imperialism was at its zenith between the years 1897 and 1899.

Chamberlain's treatment of the Boer Republics helped to reconcile them after the war and, even during the war, his attitude was conciliatory. "As soon as it is safe and possible, it will be the desire and the intention of Her Majesty's Government to introduce these States into the great circle of self-governing colonies."²⁾

Chamberlain was not lacking in generosity when he acknowledged the help of the colonies. "In our trial our hands were stayed by our Colonies, as the hands of Moses were stayed by Aaron and Hur, until victory waited on our arms."³⁾ In the House of Commons, on February 5th, 1900, he spoke as follows; "Our colonies, repelled in the past by indifference and apathy, have responded to the sympathy which has recently been shown to them. A sense of common interest, of common duty, an assurance of mutual support and pride in the great edifice in which they are all members, have combined to consolidate and establish the unity of the Empire; and these peoples shortly - very shortly as time is measured in history - about to become great and populous nations, now for the first time claim their share in the duties and responsibilities of Empire. Accordingly you have the opportunity, now that you are trustees, not merely of a Kingdom, but of a federation, which may not indeed be distinctly

1. W.P. Hall. op.cit. p. 17.

2. Garvin: op.cit. Vol. III. p. 581. May 11th. 1900.

3. Ibid. Vol. III. p. 609. October 24th, 1900.

outlined, but which exists already in spirit at any rate

Meanwhile we are finding out the weak spots in our armour and trying to remedy them; we are finding out the potential resources of the Empire, and we are advancing steadily, if slowly, to the realisation of that great federation of our race which will inevitably make for peace and liberty and justice.¹⁾

Eager as he was for Imperial Federation, he agreed with Salisbury in not trying to hasten it.

When a Liberal member, Mr. Hedderwick moved "that in the opinion of this House, it is desirable, in the interests of the Empire, that the Colonies should be admitted to some direct representation in the Imperial Parliament," Chamberlain opposed it on the grounds that it might cause misunderstanding in the colonies, particularly with regard to taxation. Though he considered free trade or preference would solve the problem, he would urge neither because of the opinions of the colonies.²⁾

However, he definitely proposed to the self-governing colonies the establishment of a permanent Imperial Council in London. In confidential letters (March 5th, 1900), he asked the Governors to ascertain the feelings of their ministers and others as to the future relations of the Empire. Defence seemed the most important subject and he suggested an Imperial Council as an advisory board to inquire into and report on the subject. This body might consider the number and character of the permanent forces to be maintained by the mother country and the colonies and their organisation for war. Each colony would control its own forces which would not be called on for service outside its own territory without the colony's consent. The members of the Council might be appointed for a term of years or for life. They would have a salary provided by

1. Garvin: op.cit. Vol. III. p. 543.

2. Ibid. Vol. III. p. 569.

the Empire in proportion to population and they might be made privy Councillors or life-peers. If the need arose, the powers of the Council might be increased.¹⁾ The replies were not encouraging so Chamberlain decided to wait until the next Colonial Conference met and ask the colonies for their own proposals.

1. Garvin: *op.cit.* Vol. III. pp. 629-630.

IV. THE COLONIAL CONFERENCES. 1887 TO 1897.

1. 1887

Taking advantage of the Indian and Colonial Exhibition held in London in July, 1886, the Imperial Federation League called a conference at which papers on problems connected with the unity of the Empire were read by Carnarvon, Roseberry, Seeley and Galt and, on August 11th, a deputation from the League waited on Salisbury, the Prime Minister, to urge him to summon an official conference of representatives of the Empire to discuss the formation of an Imperial Council. Salisbury gave a sympathetic hearing and, on November 25th, Stanhope, Secretary of State for the Colonies, sent to the Governors of colonies under responsible government an invitation to send representatives to a conference to be held in London in April or May of the following year, when the Queen's Jubilee was to be celebrated. The Crown Colonies were also invited to be represented at the discussion of any subjects which concerned them.¹⁾

In this despatch, Stanhope quoted the Queen's Speech on the prorogation of Parliament in which Her Majesty stated that she had noticed with satisfaction the increasing interest shown by the people of Great Britain in the welfare of the Colonial Empire. She was convinced of a growing desire on all sides "to draw closer in every practicable way the bonds which unite the various portions of the Empire." She had authorised communications to be entered into with the principal Colonial Governments for fuller consideration of matters of common interest.

The most important question to be discussed at the proposed conference was the organisation of the Empire for military defence.

1. Parl. Pap. 1887. LVI. (C. 5091) pp. VII-VIII.

This subject was much to the fore at the time. The offer of colonial troops to take part in the Egyptian campaign had aroused enthusiasm and made a deep impression, but a certain amount of nervousness was evident owing to Great Britain's policy of splendid isolation. The Penjdeh incident and the possibility of war with Russia brought before the people of Australia the danger of having their ports bombarded by Russian warships so that the uneasiness already caused by French and German activities in the Pacific was increased. A Royal Commission on Imperial Defence, presided over by Carnarvon, had led to the carrying out of important defensive works in various parts of the Empire but much remained to be done. It was not intended to commit either the Imperial Government or any colony to new projects entailing heavy expenditure but rather to make the best use of the money available.

The next question of importance to be discussed was the promotion of commercial and social relations by the development of postal and telegraphic communications.

Political federation was not to be discussed as there had been no expression of colonial opinion in favour of any steps in that direction and no advantage was likely to accrue from informal discussion of such a difficult problem before any basis had been accepted by the governments concerned. In fact, it might hinder the ultimate attainment of a more developed system of united action.

As the conference was to be purely consultative, the colonies were not to be represented equally or proportionally. It was suggested that the delegates should be the Agents-General or any other specially deputed representatives as well as any leading public men particularly qualified to take a useful part in the deliberations.

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On March 19th, 1887, Sir Henry Holland, who had succeeded Stanhope at the Colonial Office, addressed a circular to the colonial representatives with regard to the procedure of the conference. As Mr. Stanhope had proposed, the Secretary of State for the Colonies was to preside and in his absence his place would be taken by the Parliamentary Under-Secretary, the Earl of Onslow. The press were to be admitted to the opening of the conference but the subsequent meetings would be confidential or informal. Brief and authentic notes of the discussions would be supplied to the press. Inviting the representatives to submit further subjects for discussion, Holland wrote, "There may also be questions concerning a limited number of Colonies only, and suitable for discussion in a section of the Conference not including other Colonies; and again there are no doubt questions connected with individual Colonies which the representatives of such Colonies may desire to bring under the notice of Her Majesty's Government, apart from the Conference, on the present opportunity.

It will be my duty to decide in which of the above-mentioned modes any matter proposed for consideration should be dealt with, and on receiving from you an intimation that you desire to bring a subject under notice, I shall be happy to consider any suggestions from you as to when and how the subject should be discussed. Progress in this direction will obviously be facilitated if the Colonial Representatives should be disposed, after conferring together, to announce to me jointly any agreement to which they may have come in regard to questions to be proposed for consideration." ²⁾

"This," says Jebb, "illustrates the original conception of the Conference as a meeting between the Colonies (collectively,

1. Assistant Under Secretary of State for the Colonies. 1870-74.

2. Parl. Pap. 1887. LVI. (C.5091-1) p. 2.

sectionally, or individually) on the one hand and the British Government on the other; the former being in the position of vassals invited to confer with their overlord, who would graciously listen¹⁾ to their representations."

In reply to this circular, some of the delegates furnished lists of subjects in which their governments were particularly interested. Sir Samuel Griffith, of Queensland, mentioned such subjects as the division or appropriation of postages received in the countries from which letters were transmitted; the advisableness of the Australasian Colonies joining the Postal Union and the conditions of doing so; the establishment and maintenance of duplicate and independent lines of telegraphic communication between Great Britain and the Australasian Colonies; seconding Imperial military and naval officers for limited fixed periods for organising and commanding the Colonial forces, and consideration of Admiral Tryon's reports and recommendations on Imperial and colonial defences, especially with regard to Albany (King George's Sound) and Thursday Island. He also referred to Imperial preference in the following words - "I hope an opportunity may arise (during) the Conference of discussing the practicability of consolidating and maintaining the unity of the Empire by adding to the existing bonds a definite recognition of the principle that Her Majesty's subjects, as such, have a community of material interest as distinguished from the rest of the world, and of considering how far effect may be given to this principle by the several countries forming part of Her Majesty's dominions affording to each other commercial concessions and advantages greater than those which are granted to subjects of other States. Without for a moment suggesting

1. The Imperial Conference Vol. I. pp. 11-12.

any interference with the freedom of each Legislature to deal with the tariff of the country under its jurisdiction, I conceive that such freedom is not incompatible with a general recognition of the principle that when any article is subjected to a duty on importation a higher duty should be imposed on goods coming from foreign countries than on those imported from Her Majesty's dominions." ¹⁾

Deakin said that the Victorian Government was specially interested in deportation of foreign convicts to the Pacific; the occupation of the New Hebrides; the future government of New Guinea; the employment by the colonies of Imperial military and naval officers, and the extension of the privilege of investing trust funds to colonial debentures.

Downer (South Australia) said he would probably address the Conference on some scheme for drawing more closely together the commercial relations between England and the Colonies; the recognition in England of marriages contracted in the Colonies with a deceased wife's sister, ²⁾ and the necessity of an Imperial statute to facilitate proceedings against debtors and certain other persons absconding from one part of the Empire to another. The only other replies printed came from Cape Colony and Natal. The former mentioned among other subjects, an improved system of cable communication for commercial as well as defensive purposes, the advisability of consultation with colonial governments before concluding arrangements with a foreign power in regard to annexation of territories adjacent to British territories; the position of foreign powers in relation to adjacent British colonies with the view of preventing any blocking of British trade routes and promoting closer union between the parts

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1. Parl. Pap. 1887. LVI. (C. 5091-1) p. 3.
 2. The Royal Assent had been refused four times to South Australian Bills on this subject.

of the British Empire by an Imperial customs tariff, the revenue so derived being devoted to defence. Natal mentioned the inter-colonial difficulties arising out of the existing prohibition of differential duties and the inadequacy of existing methods of representing the colonial view of local or Imperial questions to Her Majesty's Government or the Imperial Parliament.¹⁾

The Conference was opened by the Prime Minister, the Marquis of Salisbury, on April 4th. There were present a number of members of the British Government, twenty-five delegates nominated by the governments of colonies under responsible government,²⁾ thirty-three representatives of twenty-three Crown Colonies nominated by their Governors or invited by the Colonial Secretary, and a great number of public men, ex-Governors, former Colonial Secretaries, members of Parliament, representatives of the Royal Colonial Institute and others interested in the Colonial Empire. Subsequent meetings were attended only by the representatives of the self-governing colonies and officers of government departments concerned in the matter under discussion. None of the representatives of the Crown Colonies attended again except when some from Mauritius and the West Indies were called in to the discussion on sugar bounties.

In his opening address, Salisbury said that the Conference was the beginning of a state of things which was to have great results in the future. It would be the parent of a long progeniture and distant councils of the Empire might look back at it as the root from which their greatness and beneficence sprang. The great problem before the Conference was how far they must acquiesce in the problems caused by the separation of the parts of the Empire and how far they

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1. Parl. Pap. 1887. LVI. (C. 5091-1) pp. 2-6.
 2. Natal & Western Australia were included although they did not receive responsible government until 1893 and 1890 respectively.

could obliterate them by agreement and organisation. He did not recommend them to indulge in ambitious schemes of constitution-making and thought it was wise that Imperial Federation was not to be discussed. That was a matter for the future. At present, plans were nebulous and hazy but in time something practical and business-like might be evolved. They could not emulate the German Empire in conducting all their Imperial affairs from one centre, nor did he think a customs union practical, not because of separation but because of the different fiscal policies adopted in the Empire. He considered that a *Kriegsverein* - a union for the purposes of mutual defence - was the most important business to be discussed. To get the greatest results from their common efforts, constant communication and consultation were necessary. There was a tendency to regard the defence of the colonies as an Imperial matter because dangers to the colonies were due to Imperial action and policy, but the extension of the Empire might mean that one part had to incur danger for the benefit of the whole. Danger did not arise from the mother country's policy, which was pacific, but from other countries. Defence was necessary for the safety of the Empire as there were greater facilities for attacking it. The increased naval power of European countries, their desire for colonies, and improved means of communication increased the danger of aggression. The proposals for Imperial defence were not a contrivance of the British Government to lighten their own burden by putting some of it on to the shoulders of the colonies, but they wished all to share in the task of securing safety by furnishing not only money but also men.

Holland's presidential address, after reviewing the progress of the Empire since the Queen's accession, dealt with the chief questions on the agenda paper. He stated that in this Conference, the first occasion on which leading statesmen of the great colonial dependencies

had met in consultation with members of Her Majesty's Government to discuss Imperial subjects, there was no political, i.e. no party, feeling. The most important question to be discussed was defence and "I shall not consider this Conference to fail if it does nothing more than place military and naval defence on a sound footing."¹⁾ Defence had not kept pace with the addition of territory and the growth of the Empire, while the introduction of steam into the world's navies made outlying parts of the Empire more liable to attack. The fear of war with Russia in 1878 led to the appointment of a Colonial Defence Committee and steps had been taken for the defence of the colonies but these were only temporary. In 1879, a Royal Commission was appointed to inquire into the defence of British possessions and commerce. Definite recommendations had been made and the report was the basis of action taken in relation to coaling stations. As the Australasian Colonies had undertaken the responsibility of their own defence, the part of the report referring to Australia had been communicated to them in 1883.

The whole fabric of the commercial system of the Empire on which the well-being and existence of the colonies depended, was ultimately based on the defensive power capable of being exerted during war and Holland stressed the necessity for establishing and protecting sufficient coaling-stations. These were of two classes; first, refitting stations and harbours of refuge where ships could depend on large quantities of coal, supplies, and means of repairs. As these would be strongly defended, they would be costly and therefore few in number. No Australian port was in this class. The second consisted of undefended coaling stations. The Imperial Government had already invited certain colonies where there were mixed Imperial

1. Parl. Pap. 1887. LVI. (C. 5091) p. 9.

and colonial interests to share in the cost of the necessary defence and Hong Kong, Singapore, Mauritius and Ceylon had agreed to do so. The Australasian Colonies had agreed in principle to combine for the defence of other ports with which their interests were connected. Port Jackson and Port Phillip, having regard to their geographical position, were amongst the strongest ports in the world. He also advocated building fast merchant steamers to be used for various auxiliary purposes during war. Summing up this section, he stated that the subjects to be discussed were the local defence of ports other than Imperial coaling stations, Thursday Island and King George's Sound being especially important; the naval defence of the Australasian Colonies; measures of precaution in relation to the defences of colonial ports; the use and protection of telegraph cables in war, and the employment and training of local or native troops for defence purposes.

The President went on to refer to Henniker Heaton's proposals for the adoption of all-sea mail routes in order to reduce postage rates and the proposed cable between Canada and Australia as an alternative to the Eastern Extension Company's system. This had been brought to the notice of the Government in a letter from the High Commissioner for Canada on July 29th, 1886, but Holland thought it was not likely that the British Government would subsidise a cable in competition with the already adequate system then existing.

A subject of particular interest to the Australian delegates was that of the Pacific Islands - the position of the French in the New Hebrides, the future government of New Guinea, and affairs in Samoa. In connection with the last, it was stated that a conference was to be held at Washington between Great Britain, Germany and the United States and it was hoped that due provision would be made for preserving the independence of the group and securing for each Power

full freedom of commerce, navigation and jurisdiction in matters affecting its nationals.

Canadian and Newfoundland fisheries were also to be discussed as well as South African affairs, including the defence of Table Bay.

Matters of general interest included the enforcement of colonial judgments in the United Kingdom; more adequate provision for preservation of life at sea; the effects of differences between the law of marriage in the United Kingdom and in the colonies; provisions of the Colonial Loans Act; the enlargement of the powers of trustees to invest in Colonial Inscribed Stocks; the expediency of taking the census in 1891 on the same day and in the same manner in all parts of the Empire, and the exemption from probate or succession duty in one part of the Empire on property owned by a British subject in another part.

One representative from each of the self-governing colonies spoke and though most of them kept to generalities, yet some of their words are worth noting. Sir Patrick Jennings (N.S.W.), referring to the fact that his Government had forbidden its representatives to discuss the subject, said that, if the Colonies came into accord upon the subjects to be discussed, a considerable degree of Imperial Federation would be achieved. He quoted Deakin as saying that Imperial Federation was conspicuous by its absence and therefore, being absent, was never more in the minds of the people. "I think that our discussion will be found to be divided into about ten parts, the sum of which will be Imperial Federation."¹⁾

Mr. Dodds (Tasmania) said that although the old policy of indifference had gone, there still seemed to be a desire on the part of some English people not to draw the colonies closer to the mother

1. Parl. Pap. 1887. LVI. (C. 5091). pp. 20-21.

country. He had heard an English statesman advise a colonial representative to sever all connection with the mother country. The colonies wanted the mother country to have a better understanding of the conditions of the people in the colonies, and a better appreciation of the sentiments and aspirations which sprang from their independent forms of government and their rapidly developing and growing communities. They desired England to offer them opportunities for making known their wants and requirements, to realise that Australia did not occupy the position of one weakly seeking help and protection but that she was capable of acting for herself and was anxious to join with the mother country in securing a means of defence which would ensure her immunity from the foreign foe.¹⁾

The most interesting speech came from Mr. Deakin (Victoria). He, too, referred to the change in the attitude to the colonies. "There was a time, perhaps, when an invitation to a conference such as this would not have been sent from the Mother Country; but there has never been a time when such an invitation would not have been cordially responded to by the Australian Colonies." He mentioned some important issues to which the President had not referred - "the uniting of the Colonies amongst themselves as well as with the Mother Country, the preservation of our shores from the terrible taint of foreign convictism, the extension of the boundaries of the Empire, and the assertion of the authority of its flag." Although the question was a delicate and difficult one, the Australian Colonies were expecting a statement from the Government on the question of the deportation of French convicts to the Pacific and they were anxious that Lord Salisbury, as head of the Foreign Office, should know their sentiments on the subjects he had mentioned. "We know the great

1. Parl. Pap. 1887. LVI. (C. 5091) pp. 21-22.

difficulties which must exist in communicating the wishes of a few millions of people, thousands of miles away, even to that Colonial Office which is specially charged with their interests, and we would be the last, from our experience to blame those officials whether permanent or political, who would avoid difficult questions if it were possible to avoid them; but what we feel is that when we have succeeded in conquering the natural *vis inertiae* of the Government department specially charged with Colonial concerns, we have by no means attained the full realisation of our hopes. Behind the Colonial Office there is the Foreign Office, which is still more difficult to reach; and behind the Foreign Office again lies that mysterious entity, the Cabinet, which in this country as in every other, owing to political exigencies is not only paved, but walled and roofed with good intentions unfulfilled."

Acknowledging the considerate treatment they had recently received treatment which they regarded as a happy augury for the future, he went on to say, "I have thought I could even trace an indication in certain despatches, which not many years ago were issued from the Colonial Office, that even there we found a distinction drawn between Colonial and Imperial interests. That is a distinction which we are utterly unable to draw. We cannot imagine any description of circumstances by which the Colonies should be humiliated or weakened, or their power lessened, under which the Empire would not be itself humiliated, weakened and lessened. And we are unable to conceive any circumstances under which the wealth or status of the Colonies could be increased, which would not increase in the same degree the wealth and status of the Empire." Just as some advocated a spirited foreign policy, so he urged what other nations were pursuing - a spirited colonial policy. "One has only to turn to the despatches which have passed between this Country and the Australian

Colonies upon the subject of New Guinea and the New Hebrides, and to compare them with the despatches published in the same Blue Book, taken from the White Book of the German Empire, and with the extracts of despatches issued by the French Colonial Office, to notice the marked difference of tone. The despatches received from England with reference to English activity in those seas exhibited only the disdain and indifference with which English enterprise was treated in the Colonial Office, and by contrast one was compelled to note the great eagerness with which the French and German statesmen received the smallest details of information as to the movements of their traders in those particular seas, and the zeal with which they hastened to support them. It was only when certain Englishmen had been refused recognition and protection by England that they became French citizens. It was in order to protect the interests of Englishmen who had become French citizens, that the French Government took the decisive action that it has taken in occupying the New Hebrides. And in the same way we should recall the decisive action with regard to New Guinea which the German Empire has taken. That was done upon a very much smaller appeal than the appeals which we have made from time to time in order to induce our own Imperial Government to take an exactly similar course. Who can wonder then that we fail in the South Seas while foreigners succeed? Who can wonder at the growing intensity of Colonial complaint?" Nevertheless, while realising that Imperial interests must often over-ride individual interests, the colonies would continue to press their views and he hoped that colonial policy would be considered Imperial policy and that colonial interests would be considered and felt to be Imperial
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 interests.

1. Parl. Pap. 1887. LVI. (C. 5091) pp. 24-25. The Cambridge History of the British Empire comments on this as follows - "Deakin's eloquent plea in 1887 for a more spirited colonial policy illustrates the exuberance of the rather irresponsible Australian opinion before 1887, which angered Lord Salisbury so much and which, after the Conference, and as a consequence, became much more sober." Vol. VII. Pt. I. p. 531.

The last speaker, Sir Samuel Griffith (Queensland), referred to the unity of interests between the parts of the Empire which made adequate defence so necessary for the good of the whole. He hoped that the presence of Lord Granville, the last Colonial Minister of the late Government, indicated for the future continuity of policy which was as important in colonial affairs as it was in foreign affairs.

The discussion of naval defence occupied the greater part of the time of this Conference and most of it concerned the Australasian squadron. The most important question to be decided was the amount the colonies were to contribute towards the cost and maintenance of this squadron. With the idea of encouraging the extension of the Imperial navy, rather than establishing separate colonial navies, Rear-Admiral Tryon had been in Australia negotiating with the governments with the result that they had rejected the Admiralty's proposal that the colonies should pay the original cost and the annual maintenance of the vessels which should remain the property of the colonies at the end of ten years. New South Wales, Queensland and Tasmania were willing to bear the maintenance and pay 5% of the cost of the vessels which were to remain the property of the Admiralty. Victoria and South Australia were willing to pay only the charge for maintenance, while New Zealand proposed to contribute £20,000 a year if two ships were assigned to New Zealand waters.

The task before the Conference was to reach a compromise which was likely to be acceptable to the Australasian parliaments. The division of the cost amongst the several colonies was, of course, a purely local matter but Griffith pointed out that if the Conference could decide the matter without its having to be submitted to another conference in Australia, a delay of two or three years might be avoided and a definite recommendation from the Conference would carry great weight with those parliaments. It was, therefore, decided to

apportion the cost according to population, trade and shipping, the Board of Trade or some other agreed authority to act as arbitrator.

Then came the question of dividing the cost between the colonies and Great Britain. The Admiralty proposed the scheme supported by New South Wales, Queensland and Tasmania and Lord George Hamilton, First Lord of the Admiralty, pointed out that they were not trying to drive any hard or niggardly bargain but were anxious to come to some working arrangement, just and equitable in itself, which would be an example and inducement for other colonies to follow.

Downer (South Australia) said that the scheme was a new departure in the history of the Colonial Empire and appealed to the British Government to act generously, as English-owned ships and English investments were being protected and the strengthening of the Australasian defences strengthened the whole Empire. Deakin followed the same lines. They were not making a bargain but a free-will offering. Arrangements made would be only tentative as owing to the growth of the colonies, they would assume their responsibilities gradually. They would be making a contribution to the whole Empire as two-thirds of the shipping of Victoria were British and if Australia were in foreign hands, a much greater fleet would have to be maintained to protect British shipping in those waters. In any case, the Admiralty would probably have had to increase the number of ships whether the Australasian colonies made any offer or not.

The British Government seemed to be trying to get as much as possible from the Australasian colonies, some of which through fear of foreign aggression, had undertaken a considerable amount of local defence work which had been favourably commented on by English naval experts. The British Government seemed to be taking advantage of these fears to treat them differently from Canada, for example.

After much discussion at several sessions, an agreement was
reached

which was to be submitted to the parliaments of Australia and New Zealand. The Admiralty was to maintain a squadron in Australasian waters and in return these colonies were to pay yearly 5% of the cost of construction, a sum which was not to exceed £35,000 a year, and the cost of maintenance, which was not to exceed £91,000 a year. Details were agreed on, such as the type of vessels, payments to commence when the ships were commissioned, replacement at the cost of the British Government of ships lost by wreck or other accidents, and the limits of the Australasian station. Two ships were always to be in New Zealand waters unless it was considered necessary to remove one or both, in which case the Naval Commander-in-Chief was obliged to inform the Governor of the reasons for the removal, but, as Lord George Hamilton said, "in war or any emergency whatever arrangements made in time of peace are over-ruled."¹⁾ The agreement was to last ten years and at least two years' notice of its termination was to be given.

The discussions on the fortification of King George's Sound and Thursday Island had a less satisfactory conclusion. The report gives the impression that Great Britain was trying to get the colonies to do as much as possible for their own defence in return for the minimum of help from herself. Visiting experts had impressed on the Australians the strategical importance of these two places and the necessity for fortifying them had been recognised by the Imperial Government and by the Australian Colonies. The Federal Council in February, 1886, had passed a resolution to the effect that some united action should be taken by the Imperial and the Australian governments. Admiral Tryon stressed the importance of King George's Sound, particularly if the Suez route were closed, and of Thursday

1. Parl. Pap. 1887. LVI. (C. 5091). p. 491.

Island as a coaling station forming a link between Australia and the East Indian and China stations and situated so as to commend a busy trade route. He regarded these two places as the most important on the whole Australian coast.¹⁾ The British Government offered to

supply a certain amount of armament if the colonies would undertake the cost of the necessary constructional work and maintenance.

Some of the guns offered were oldfashioned and would soon be quite obsolete but the colonies could have modern guns if they liked to pay for them. Both the Australian and the New Zealand Delegates criticised what they considered the niggardliness of this offer.

Forrest (W.A.) said they were being offered guns which would cost about £12,000 while the colonies were prepared to spend £70,000 on constructional work besides from £10,000 to £15,000 a year for

maintenance.²⁾ The haggling prompted some interesting remarks from Service (Victoria) who complained that no principle had been laid down upon which financial contributions should be made. "It seems that upon this question you ask us to give you 1/- and we offer you eleven pence; and it seems to be a question which, out of good nature or with the least fear of their local Parliament before their eyes, will give way."³⁾

Downer contended that the fortification of King George's Sound was as important to Great Britain as to Australia and concerned the strength of the whole Empire but Stanhope, Secretary for War, stated that the Imperial Government had never admitted that they were bound to go to any expense for the defence of positions in Australia and that other places more important should be fortified first.⁴⁾ Western Australia had not yet received responsible government

1. Parl. Pap. 1887. LVI. (C. 5091) pp. 264-265.

2. Ibid. p. 256.

3. Ibid. p. 258.

4. Ibid. pp. 259-260.

and its population was only about 36,000. The other colonies were willing to assist Great Britain to defend it but were not ready to do practically the whole of the work themselves. Stanhope's attitude was not likely to encourage the colonies to contribute to works outside their own boundaries. The fortification of King George's Sound was, they felt, an Imperial concern and the place should be treated differently from other coaling stations. The British Government's proposals with regard to Esquimaux and Simon's Bay emphasised the inconsistency of their policy towards the Australian colonies. Stanhope and Holland said that King George's Sound and Thursday Island were not Imperial coaling stations and hoped that Western Australia and Queensland would do more for their defence. The experts from the Admiralty and War Office also attempted to belittle their importance and Captain Hall said that King George's Sound was not necessary as a coaling station but should be prevented from falling into enemy hands¹⁾ to be used as a base of operations against passing trade.

²⁾ Stanhope's paper on the coaling stations of the Empire which he read to the delegates did not remove the feeling that the Australian colonies were being treated less generously than other parts of the Empire. He gave the impression that these two Australian stations might be considered sometime in the future and Deakin pertinently remarked that, when this question was being considered, and the responsibilities of Australasia were being measured, he hoped that they would be measured by something like the same standard as had been applied to other parts and that what had already been done by the colonies in fortifying Sydney and Melbourne would be taken into account.³⁾ No matter how the delegates argued,

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1. Parl. Pap. 1887. LVI. (c. 5091). p. 428.
 2. Ibid. pp. 276-280.
 3. Ibid. p. 283.

they could get no satisfactory statement from either Holland or Stanhope. It was admitted that the places were important, but other places were more important, and that though Imperial interests were concerned, colonial interests were greater. Holland tried to defend the attitude of the British Government¹⁾ but he did not succeed in doing what the Australian delegates asked for, namely, stating the principle on which the colonies and the mother country were expected to contribute to the defence of the Empire and so the discussions came to an unsatisfactory end. The Australian delegates were so convinced that these two places should be strongly fortified in order to assure the safety of Australia that they quite misunderstood the attitude of the Imperial authorities. The Admiralty officials, viewing the defence of the Empire as a whole, could see that the Australians over-rated their importance but were unable to convince them of the fact. King George's Sound and Thursday Island were not of sufficient importance in the general scheme of defence to warrant a large expenditure by the Imperial Government though naturally no objection would be taken to any amount of expenditure by the Australian governments.

Some minor matters connected with defence were discussed and arrangements were agreed to for the periodical inspection of the forces of the Australian colonies by an officer of the British army and for temporary employment of British naval and military officers by colonial governments. It was also proposed that colonial forces should be liable to serve at all times in defence of their colony and to serve abroad if their Governments consented and provided the means. In the latter case, they would be under the Imperial officer commanding and subject to the Army Act. The order of precedence of

1. Parl. Pap. 1887. LVI. (C. 5091). pp. 529-530.

colonial forces was also discussed and it is interesting, in the light of more recent events, to read in a memorandum on the subject the following words, regarding the employment of Imperial and colonial forces together: "Such occasions would necessarily be rare, and it is almost inconceivable that Imperial volunteers should ever act with Colonial volunteers."¹⁾

Some²⁾ time was devoted to the international questions and matters which were still under discussion with foreign governments. These discussions, being confidential, were not reported but Murdoch in his biography of Deakin gives us some idea of what happened. "Lord Salisbury's manner, in the privacy of this meeting, was quite different from the manner of his opening address. Then, he had spoken in carefully-weighed, stately, polished sentences; now he adopted a careless, cynical, almost contemptuous tone, as of a man who much as it bored him, was compelled to instruct these ignorant and rather intrusive colonials on some elementary facts of foreign politics. His attitude was one of aristocratic condescension. His theme was the comparative worthlessness of the New Hebrides, the impatience of the French, and the unwisdom of declining their offer to stop the deportation of criminals if the group were ceded to them. He rated the Australians for their obstinate opposition to the cession of the islands, which made more difficult the delicate task of dealing with France. When he had finished, a representative of New South Wales replied in a tone/^{of} almost abject humility, apologizing (in effect) for the strong feeling which had been displayed in Australia, and assuring the noble lord that when the Australians heard the excellent reasons which he had offered for the surrender

1. Parl. Pap. 1887. LVI. (C. 5091). p. 528.

2. April 15th and 26th. Also conference with representatives of Cape Colony on April 7th.

of British claims in the New Hebrides, in exchange for a promise from France that the deportation of récidivistes to New Caledonia would cease, they would be perfectly satisfied. Other speakers followed, accepting the situation with a more or less good grace. Service and Berry both spoke, re-stating the Australian case, and expressing deep regret and disappointment at the lack of sympathy shown by Salisbury. Deakin spoke almost last, his former chiefs having preceded him at his own request. He broke quite new ground, challenging Salisbury's arguments one by one, and mercilessly analysing the inconsistencies of his speech. They were asked, he said, to surrender the New Hebrides as of little commercial value, and in the next breath were told that the French set the greatest store by them for commercial development. For us to attempt to negotiate a great Power like France out of its place in the joint protectorate was presumption, and yet a greater Power- the British Empire - was asked to consent to be negotiated out of her place without a protest. French interests in Australasia were spoken of as large, while ours, which were incomparably larger, were brushed aside as of no account. All that was offered us in exchange for our sacrifice of an existing treaty was another treaty, just as likely to be discounted in the future. We were assured that our alarm as to French intentions was groundless but we should never forget that it was while relying on a similar assurance from the Colonial Office that our trust had been betrayed by the surrender of a part of New Guinea to Germany. Australian ideas of British ministers were now derived from their bitter experience of Lord Derby and such a proposal as this would only confirm them in their impression that Tory and Liberal Ministers alike were prepared to sacrifice Australia's dearest interests without consideration or the striking of a single blow. It was admitted, now, that the Republic

had not kept faith with us, but it was urged that the chaotic political condition of that country explained that lapse. Had they been brought to London to be taught the disadvantages they suffered from owing to the stability of British governments? Were they asked to regret the absence of political chaos in the Mother Country, and to pay for that which existed elsewhere? They were reminded that the French were a proud, high-spirited, and powerful nation, perfectly prepared to defend their rights by war if necessary. Had then the colonists come thousands of miles to learn that Great Britain was no longer proud nor high-spirited, and was not prepared to defend the rights of her people or to resist unjust demands? If so, it was a very unfortunate but very impressive manner of teaching the lesson! Deakin concluded by declaring, with passion, that the people of Victoria would never be parties to any cession of the islands on any terms, and that the Australian-born who had made this question their own would forever resist the humiliation of a surrender which would immensely weaken their confidence in an Empire to which hitherto they had been proud to belong.

He spoke with biting sincerity and intense energy; at times the words flowed like a stream of lava; when he made an end of speaking, the meeting was ablaze with excitement. Some delegates had listened with a look of pained surprise which deepened as the speech proceeded; their sense of decorum was shocked; such audacity, such presumption, such a distressing lack of the awe and veneration with which all right-minded men must ever regard a British Cabinet Minister! But most of the Australian delegates had heard him with delighted approval; he had found eloquent words for what they all felt. Lord Salisbury himself was not among those who disapproved. Several times he was noticed to stare at the speaker, as well he might, with evident amazement at his plain speaking; but he appeared rather pleased than otherwise at the strong condemnation of Lord

Derby's surrender of New Guinea; and he was magnanimous enough to rise superior to all personal irritation against his assailant. A few evenings later, he forced his way through a packed throng in Sir Henry Holland's drawing-room to whisper to Deakin that instructions had been sent to Lord Lyons (the British Ambassador at Paris) not to yield on any terms any of the British interests in the New Hebrides. There seems to be no doubt that Deakin's bold statement of the Australian view had caused this change of policy.¹⁾

In connection with Salisbury's part in the Conference, two notes which he wrote to Holland show his attitude to the aspirations of the colonies. The first is dated April 18th, 1887, and reads,- "Of course I shall be delighted to come to the Colonial Conference meeting. I will do my best to keep my temper, but the outrecuidance of your Greater Britain is sometimes trying." The second, dated April 27th, evidently refers to the confidential proceedings of the preceding day. "I told you that if I came I must speak the truth in love. It does seem to me that they are the most unreasonable people I ever heard or dreamt of. They want us to incur all the bloodshed, the dangers, and the stupendous cost of a war with France, of which almost the exclusive burden will fall upon us, for a group of islands which to us are as valueless as the South Pole, and to which they are only attracted by a debating club sentiment."²⁾

Murdoch's account is highly-coloured owing, probably, to his desire to exalt his hero, and represents Deakin's impression of the meeting, the details of which he no doubt exaggerated. But taken in conjunction with Salisbury's two notes to Holland, it gives the impression that the Government's foreign policy was not entirely approved of and met with a certain amount of adverse criticism.

1. Murdoch: Alfred Deakin, a Sketch. pp. 115-118.

2. Holland. (Viscount Knutsford): In Black and White. p. 127.

An agreement was reached as to the future administration of New Guinea. For the past twenty years, this territory had caused concern amongst the Australian colonies and the attitude of the British Government had given much dissatisfaction.

In 1828, the Dutch took possession of the western part and in 1846, Lieutenant Yule hoisted the Union Jack in the east but the British Government did nothing to make good this claim. A company was formed in Sydney in 1867 to develop the resources of eastern New Guinea and applied to the New South Wales Government for assistance which was refused. However, the Government wrote to the British Government urging the annexation of the territory but Lord Derby refused to act. Further explorations by Captain Moresby in 1873 revived interest and, in 1874, F.P. Labilliere wrote to Lord Carnarvon and pressed him to annex it. Consultation showed the Australian colonies divided on the subject. Though the governments of Queensland and New South Wales wished Great Britain to annex the country because it was rumoured that Germany was contemplating extensions in the Pacific, Carnarvon refused unless the Australian colonies bore the cost of administration. Following the discovery of gold in the south of the island in 1878, it was put under the charge of the High Commissioner for the Western Pacific. Renewed rumours of foreign occupation were denied by the British Government in 1882, but Queensland, impressed with the importance of Torres Straits as a trade route, offered to bear the whole cost of government. Lord Derby, repudiating Carnarvon's policy, refused, whereupon on April 4th, 1883, an agent of the Queensland Government took possession of all the island that was not in the possession of the Dutch. The British Government refused to confirm this action, even though the colonies were willing to share the cost of governing the new territory and again the Foreign Office denied the likelihood of foreign

occupation. An Inter-Colonial Conference in December, 1883, again urged annexation and in August, 1884, the British Government at last decided to proclaim a protectorate over all the non-Dutch territory. But the Germans began openly to show an interest in the Pacific and the northern part of New Guinea was mentioned as a probable field for German expansion. The German demand for colonies after 1870 was at first opposed by Bismarck because he thought the need for defending them would weaken Germany, but when the demand became too insistent he gave way in order not to weaken his own position in the country. The British annexation of Fiji did not please him because he wanted to impress the Germans with his ability to protect Germany's interests anywhere in the world. The attitude of the Australian colonies to the annexation of the unoccupied parts of New Guinea and the adjacent islands roused the envy and cupidity of the German colonial party whose growing influence Bismarck wished to check while showing at the same time that by friendly relations with Great Britain he could gain from the British Government impartial attention to his wishes. The prospect of a general election in the autumn of 1884 made him desirous of conciliating the colonial party and acceding to the demand for colonies so as not to lose support. The British Ambassador in Berlin, Lord Ampthill, wrote to Granville (March 15th, 1884), "If you cannot give him the mixed Commission (on German claims in the Pacific) we must make up our minds to a phase of ill-humour on the part of the great Chancellor."¹⁾

Granville was anxious to maintain friendly relations with Germany but Dr. Nachtigal's activities in West Africa had been followed by British annexations on the same coast and this had led to a vigorous outcry by the German colonial party. Great Britain was

1. Fitzmaurice; Life of Granville, Vol. II, p. 339.

also concerned about France's intentions with regard to Egypt and Count Munster informed Granville that Germany could not maintain a friendly attitude on Egyptian matters if Great Britain maintained an unfriendly one on colonial questions.¹⁾ When Great Britain acceded to Germany's wishes with regard to Africa and the Fijian commission, relations improved at once. Bismarck increased his popularity so much as a result that he decided to continue his colonial activity and embarked on a policy which at one time he had condemned.²⁾

In deference to Germany's rumoured interest in New Guinea, the British Government's decision to annex all but the Dutch portion of that island was modified. Granville and Derby without consulting the whole cabinet, and in spite of the wish of the Colonial Office which urged the occupation of an even larger territory,³⁾ decided that only the south-eastern portion should be annexed. This pleased neither Bismarck nor the Australians. Meade, Under-Secretary at the Colonial Office, went to Berlin to discuss the situation but even while the Conference was in progress and while Bismarck and Busch appeared to be agreeing to Britain's plans for dividing New Guinea, the German Government's annexation of the northern part together with some adjacent islands was announced (December 19th), much to Meade's astonishment. Germany thus got command of the main trade route between Singapore and eastern Australia. There was, therefore, nothing left for Britain to do but to establish a protectorate over the remainder of New Guinea. "The German Government" wrote Meade to Granville (December 20th, 1884) "have behaved very shabbily by you⁴⁾ Dr. Busch has behaved equally ill to me." In April, 1885, boundaries were agreed upon and the government of British New Guinea

1. Fitzmaurice, op.cit., Vol. II. p. 354.

2. Ibid. p. 355.

3. Ibid. p. 372.

4. Ibid. p. 374.

1)
 was placed in the hands of a special commissioner. Fitzmaurice sums up the business as follows - "In order to conciliate Germany in New Guinea and the neighbouring seas, it was necessary to run the risk of flouting the demands of British colonial opinion. Lord Granville, and still more Lord Derby, hesitated to do so; and in Mr. Childers, whose own early career had been in Australia, Lord Derby found an active coadjutor. Mr. Gladstone, however, dominated the situation with his own determined will. He saw that a choice had to be made, and recognised that the continued hostility of Germany was a danger greater than that of the irritation of the Australian colonies about New Guinea and the Pacific islands. He therefore threw the whole weight of his influence into the scale of an agreement with concessions to Germany, notwithstanding his former dislike and suspicions, and the recent conduct of Prince Bismarck which had gone far to justify them."
 2)

At the suggestion of the President, the delegates decided to bury the past and gave their attention to Griffith's proposal for governing New Guinea. The British Government was prepared formally to annex the protectorate and would contribute the amount of £29,000 towards the initial expenses of government. The colonies between them were to guarantee £15,000 a year for 10 years. An Administrator was to be appointed and be responsible to the Queensland Government from whom he was to receive his instructions. While Queensland was to be responsible for the government of the territory, any matter of an extraordinary nature was to be referred to the colonies guaranteeing the costs of government. Due protection was to be afforded the natives. All purchases of land from natives had to be made through

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1. Scott, Short History of Australia. pp. 279-286. C.H.B.E. Vol. VII. Pt. 1. pp. 354-360. Hall, Australia and England, pp. 217-229.
 2. Op.cit., Vol. ii. p. 430.

the Government and natives were not to be removed from one place to another or be supplied with arms, ammunition, explosives or alcohol except under laws assented to by Her Majesty in Council. Differential duties were prohibited. Appeals were allowed to the Supreme Court in Brisbane in civil cases involving over £100 and in criminal cases involving more than three months' imprisonment. At first, Queensland, New South Wales and Victoria were the only colonies included in the agreement but the delegates from Tasmania and Western Australia expressed the readiness of their governments to participate. Deakin appealed to South Australia to co-operate but Downer would give no promises. South Australia had agreed to the scheme when it applied to the whole of New Guinea and not merely a part but the colony did not feel bound to continue under the former agreement, especially when the British Government was treating the question as it it were a matter of purely Australian concern and not of Imperial importance.¹⁾

The development of postal and telegraphic communication was another subject mentioned in the invitation to the Conference and the President announced that there were three questions to be considered in connection with postal affairs. One was Imperial penny postage, another the advisability of colonies not yet members of the Postal Union becoming members and the third was the Australian mail contract.

The reduction of the rate of postage on letters between different parts of the Empire to a penny per half-ounce had been advocated by Henniker Heaton, M.P. for Canterbury, in the course of correspondence in the press and with the Post Office. The Postmaster General, Mr. Raikes, attended the Conference in order to hear the views of the delegates, particularly the Australians as they would be most affected by such a change. Mr. Raikes said that the Post Office

1. Parl. Pap. 1887. LVI. (C. 5091) pp. 362-370, 532-536.

could not accept Mr. Heaton's facts or figures. The postage between England and Australia was 6d. each way. On the outward journey, the Australian Governments got 2½d. and the British Government got 3½d, but out of that England had to pay 3d. to the French and Italian Governments for expenses incurred in carrying the mails overland to Brindisi. On the return journey, the Australian governments received the whole of the postage. The overland rates were heavy but had been reduced by the French and Italian Governments on condition that all the Eastern mails went by this route. It was possible to establish an all-sea route via the Mediterranean and charge 3d. per half-ounce but this would probably conflict with the agreement with France and Italy. A third route was available by using the New Zealand steamers which sailed from Plymouth and called at Hobart. The postage to Hobart would be 1d. and an additional 2d. would be necessary to send the letters to the other Australian states. But these would give the Australian colonies less revenue than the Brindisi route. The Canadian delegates put in a strong plea for the use of the Canadian Pacific Railway so that mails could be sent not only to Australia but also to Asia by way of Vancouver. Most of the delegates thought that penny postage was impracticable owing to the great distances to be traversed in sparsely populated areas and the postal services in many places were already running at a loss. Sir Saul Samuel (N.S.W.) said that postal business between New South Wales and England was comparatively small. Commercial men would use the services for business purposes no matter what the rate was while the numbers of private people who corresponded with people in England was small and a cheaper rate was not likely to make any difference

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to this number.

Fitzherbert (N.Z.) urged a cheaper rate in order to increase correspondence between the colonies and the Mother Country so that they would not lose touch with each other.

Although the delegates did not think any good would result, they decided to have Heaton to address the Conference. He proposed that correspondence should be divided into two classes, the first to go by a slower all-sea route at 1d. per half-ounce. He also urged the Government to try to have the trans-continental charges reduced in order to lower the rates on the first class matter and also to throw open the mail contracts to the freest and fullest competition.

However he did not make a great impression and so matters stood as they were.¹⁾

As for joining the Postal Union, the non-members felt that it was absurd for small countries such as the Central American republics with their small revenues to be given separate votes when only one vote was offered to all the Australasian colonies. The Empire had two votes, one exercised by Great Britain, the other by Canada. In 1885, two more were offered, one to the Australasian colonies and another to Cape Colony and Natal if they entered the Union. The non-members decided to join only if given adequate representation.²⁾

The three Australian colonies which were concerned in the Australian mail contract, New South Wales, Victoria and South Australia, did not wish the matter to be discussed at the Conference but the Tasmanian representatives were afraid that the new arrangements would cause their colony loss of revenue. Under the previous arrangement, Tasmania received a part of the postages collected in England on Tasmanian letters but under the new arrangement, the British Government and the governments of the three contracting

1. Parl. Pap. 1887. LVI. (C. 5091) p. 353.
2. Ibid. p. 204.

colonies would share the receipts and Tasmania would have to make a new contract, this time with the three Australian colonies.

Tasmania had stood out of the agreement but it seemed as if she wanted to use the Conference as a Court of Appeal to intervene on her behalf so that she would not suffer for her action. This, of course, the Conference could not do, but Mr. Dodds was appeased when he was assured that the three contracting colonies would treat Tasmania¹⁾ generously.

One of the Canadian delegates, Sandford Fleming, opened the discussion on telegraphic communications by referring to a scheme put forward by a proposed Pacific Telegraph Company in which he was interested. This company proposed to lay a cable from Vancouver to Australia and New Zealand via the Sandwich Islands, Fanning Island, Samoa and Fiji and, in return for a subsidy of £100,000 (later reduced to £75,000)²⁾ from the governments of Great Britain, Canada, New Zealand and the six Australian colonies, charge a maximum of 4/- per word for cables from England to Australasia, the existing rate by the Eastern Extension Company being from 9/4 to 10/6 a word. The subsidising governments would have free use of the line up to the amounts of their respective subsidies. If this line were laid, the British Government would be able to communicate with India and South Africa without depending on European lines, since Australia was connected with those countries. The line would be of great strategic importance; it would strengthen the Empire in the Pacific and the depth at which the cables would be laid would secure them from enemy interference.³⁾ Mr. Raikes hoped the Conference would express a decided opinion in favour of this scheme although the Government could not recognise the monopoly of any company nor yet interest itself in a scheme so as to

1. Parl. Pap. 1887. LVI. (C. 5091) p. 352.

2. Ibid. p. 541.

3. Ibid. pp. 213-214.

become a competitor with existing commercial enterprise.

Mr. Pender of the Eastern Telegraph Company tried to block the proposal and maintain his company's monopoly. He stressed the difficulties of constructing and maintaining the Pacific cable owing to the nature of the route, although no complete survey had been made of the ocean floor. He also offered to reduce the rate to 4/- a word in return for a subsidy varying with the amount of business and appealed for special consideration because his company was a pioneer in the work,

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it had worked without subsidies and had constructed lines connecting some of the most important strategic points of the Empire such as

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Gibraltar, Malta and Aden. He gained support from Downer because the South Australian Government had built a telegraph line from Adelaide to Port Darwin at a cost of nearly £600,000 in order to connect with the company's system and so were interested in maintaining the monopoly of

4)

that route. But most of the delegates who spoke seemed desirous of breaking the monopoly. They realised too, the advantage in case of war of an alternative route passing entirely through British territory.

Hofmeyr (Cape Colony) urged the connection of Australia with the Cape, via Mauritius, as a completion of the Imperial system.

5)

Sir Julius Vogel, Postmaster General of New Zealand, had prepared a memorandum on the subject of cables in which he proposed that the colonial governments should purchase the existing lines of the Eastern and Eastern Extension Telegraph Companies and also construct an alternative route either via the Cape or via Vancouver. Although the British Government would not assist a competitive private company, there was some likelihood that help would be given to

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1. Parl. Pap. 1887. LVI. (c. 5091). p. 216.
 2. A subsidy of £32,000 from N.S.W., Victoria, S.A. and W.A. for duplication of part of the line was too small to be considered as a subsidy for a company with a capital of £3,500,000. p. 320.
 3. Ibid. pp. 314-333.
 4. Ibid. p. 221.
 5. Ibid. p. 226.
 6. (c. 5091-1). pp. 116-119.

government undertakings in the interests of defence. The Canadians supported the New Zealand proposal and Sir Alexander Campbell brought forward the two following resolutions to which the general assent of the delegates was given: First, that the connection recently formed through Canada from the Atlantic to the Pacific by railway and telegraph opens a new alternative line of Imperial communication over the high seas and through British possessions, which promises to be of great value alike in naval, military, commercial and political aspects. Secondly, that the connection of Canada with Australasia by direct submarine telegraph across the Pacific is a project of high importance to the Empire; and every doubt as to its practicability should, 1) without delay, be set at rest by a thorough and exhaustive survey.

Towards the end of the Conference, the question of preferential tariffs was raised, though the term generally used was "differential duties." 2) Griffith, 3) Downer and the Cape representatives had mentioned the subject in their replies to Sir Henry Holland while Robinson of Natal wrote that he hoped to bring to the notice of the Conference "the inter-colonial difficulties that arise out of the existing prohibition of differential duties." 4) In his opening speech, Salisbury warned the delegates that the resolutions arrived at 40 years previously in respect to the fiscal policy of Great Britain made a Customs Union impossible for the time being. 5)

On May 3rd. Griffith said that when the question of the Sugar Bounties was under discussion, there seemed to be a "unanimous consensus of opinion that it was the duty of the governing bodies of the Empire to see that their own subjects had at least an equal chance with the subjects of foreign countries in the matter of trade." 6)

1. Parl. Pap. 1887. LVI. (C. 5091) p. 517.

2. (C. 5091-1). p. 3.

3. Ibid. p. 5.

4. Ibid. (C. 5091-1) p. 6.

5. (C. 5091). p. 5.

6. Ibid. p. 462.

But he wished this to be carried further and asked the Conference to consider whether the subjects of the Empire should not have a preference over foreign subjects in matters of trade. The bond of material advantage was a strong one but he thought the time had not yet arrived for an Imperial Zollverein as that would interfere too much with the fiscal systems of the colonies and with their revenues and expenditures. But the prosperity of the Empire was the first consideration and individual liberty might have to yield to the general good of the community. He did not think anything could be done at once nor did he suggest interference with the tariffs of any country but he thought they ought to consider the proposition "that if any member of the Empire thinks fit for any reason to impose Customs charges upon goods imported from abroad, it should be recognised that goods coming from British possessions should be subject to a lighter duty than those coming from foreign possessions." ¹⁾ Favoured nation clauses in treaties already in existence would interfere with immediate action but the subject should be considered as a matter of future policy. The people of the Empire should have advantages which were not given to foreigners. The time for universal philanthropy when dealing with foreign nations in questions of trade had not yet come and their first duty was to the Empire. Hofmeyr followed with an able speech in which he amplified the fourth paragraph of his reply to read as follows: "The feasibility of promoting a closer union between the various parts of the British Empire by means of an Imperial Tariff ^{of} Customs to be levied independently of the duties payable under existing tariffs, on goods entering the Empire from abroad, revenue derived from such tariff to be devoted to the general defence of the Empire." ²⁾ He had two objects, one, to

1. Parl. Pap. 1887. LVI. (C. 5091) p. 462.
 2. Ibid. p. 463.

promote the union of the Empire; the other, to obtain revenue for purposes of general defence. The scattered nature of the Empire naturally lead to territorialism and local interests had disintegrating tendencies. He gave as an example the West Indies which under the existing treaty arrangements of Great Britain could not sell sugar profitably in the British market. On account of other treaties and obligations of the Empire, they could not avail themselves of the almost unlimited market in the United States. Loyalty and self-interest clashed and resulted in a feeling in favour of annexation to the United States.

Canada had negotiated a treaty with the United States for a differential customs tariff and this privilege should not be withheld from other parts of the Empire. If the Imperial Government refused to allow it, a feeling of dissatisfaction would be aroused by which the unity of the Empire would probably suffer, but, if it were granted unity was just as likely to suffer. The colonies would place their affections where they found their means of support and if treaties were entered into with foreign countries, bonds of friendship would be formed with them instead of with the mother country. Cases such as that of the West Indies/^{were} likely to increase with the spread of the policy of protection in the colonies.

The solidarity of the Empire would also suffer if considerable demands were made upon the colonies for contributions for defence or any other Imperial purposes. The Conference had spent a good deal of time in discussing defence but, from an Imperial point of view, the only result arrived at was the arrangement for the payment of a subsidy by the Australasian colonies, the rest of the colonies doing nothing. This system of subsidies would not answer in the long run. The principle of representation would be asserted by the colonies because the subsidy was practically a tax. Then a system of

political federation would be brought to the fore which would present tremendous difficulties. He assumed that some other consolidating force besides mere sentiment was necessary, namely, self-interest, and that more might have to be done for defence, that greater contributions would be required which the colonies would not be prepared to pay in the form of subsidies though they might not object to indirect taxation which practically admitted their right to greater fiscal privileges within the Empire than were accorded to foreign powers. Although such a scheme could not be put into effect immediately, he thought it would be advantageous to discuss it and gather the opinions of the delegates. In 1885, foreign imports into the United Kingdom and the colonies were valued at £352,000,000. A tariff levied on this at an average of 2% would yield over £7,000,000 which could be used for defence purposes. This would relieve the colonies of subsidies, be paid by Great Britain and the colonies alike, and the colonies would not feel it. Hofmeyr anticipated a number of objections which might be raised and answered them. There could be no objection to levying differential duties since the Australian colonies were allowed to grant each other special trade privileges and the Cape Colony had differential duties with another colony and with foreign states. If the scheme infringed the most favoured nation clauses in treaties with foreign powers, then the Australian and Cape tariffs already did so. At any rate, such clauses should not be included in future treaties. The system might lead to Protection but it would depend on the representatives of the colonies and the United Kingdom whether the system became protective or not. On the other hand, it might lead to absolute free trade between the mother country and the colonies, and if there were only one tariff, i.e. the Imperial tariff, then there would be a Zollverein.

The scheme would revolutionise the fiscal system of Great Britain as duties, no matter how small, would have to be placed on the bulk of the articles imported, otherwise no reciprocal advantage would be gained. It was objected that the food of the poor man would be taxed, but Empire food-stuffs would be duty-free and would be sufficient for the population of Great Britain.

Manufacturers would object to a tax on raw materials but only those coming from foreign countries would be taxed and the supply from the colonies would probably increase so much as a result that Great Britain would become independent of foreign supplies.

British taxes would not be increased. On the contrary, the British tax-payer might be relieved as the colonies would be contributing to the cost of defending the Empire.

As for foreign retaliation, foreign countries already levied duties on British trade. British exports to foreign countries had been decreasing for a long period while there had been an increase in exports to the colonies which would undoubtedly continue if this scheme were adopted.

No compulsion would be required to bring the colonies into the scheme as they would see its advantages and not stay out. A body with legislative and also administrative powers would be required to fix the tariff and, in consultation with the British Government, have something to say about the administration of the funds. It would be a sort of limited fiscal Parliament by the side of the British Parliament and the various colonial Parliaments.¹⁾ This was a much smaller difficulty than Imperial Federation which might, indeed, grow out of it. But if this scheme failed, so would Imperial Federation.

The President tried to avoid discussion by proposing the next business but though the representatives of Canada, which was to play

1. Parl. Pap. 1887. LVI. (C. 5091) p. 468.

a prominent part in Imperial preference, did not speak since they had no instructions from their government on the subject, the other delegates seemed favourably impressed. Downer said that self-interest had brought Free Trade and self-interest would bring the opposite policy in a very short time,¹⁾ while Fitzherbert pointed out that parts of the Empire suffered through Great Britain's free trade policy. Service was impressed and said that it was not a question of Free Trade or Protection but the unity of the Empire and Deakin thought it one of the few means of drawing closer the bonds of unity and increasing the solidarity of the Empire. But it was an Imperial matter and until Great Britain was convinced that it was good and changed her manner of regarding fiscal questions, it would be useless for the colonies to urge its adoption.²⁾ Robinson said it was the only concrete proposal which had been brought before the Conference bearing directly on the unification of the Empire and urged the Conference to put forward a definite expression of opinion, but the President would not allow any resolutions, though promising to bring the discussion to the notice of the Government for its full consideration.

Next came the discussion introduced by Sir. F. Dillon Bell (N.Z.) on negotiations with foreign powers in matters of trade. Bell said that Canada had been granted the privilege of negotiating with foreign powers under the sanction of the Foreign Office and in concert with Her Majesty's ambassadors or ministers and he wished this privilege to be extended to the Australian colonies. In 1878-79, when Galt, the High Commissioner for Canada, who had already been on a similar mission to Spain, wished to negotiate with the

1. Parl. Pap. 1887. LVI. (C. 5091) p. 469.

2. Ibid. p. 473.

French Government for relaxation of duties on Canadian products, he was formally accredited by the Marquis of Salisbury to Her Majesty's Ambassador in Paris in order to communicate with the proper authorities. The details were left to Galt but the formal negotiations between the Governments of France and England were conducted by the British Ambassador. Several Postal Money Order Conventions had been signed between Canada and foreign countries and at the International Cable Conference in 1884, the High Commissioner for Canada signed the convention on behalf of Canada in the same way as the representatives of other contracting powers. In order to negotiate with Spain, the High Commissioner had been granted joint plenipotentiary powers with the British Ambassador in Madrid. Bell himself had been formally accredited to the British Ambassador in Paris in order to discuss postal matters.

Bell's communication to the Conference was inspired by the recently commenced trade in frozen mutton. A market had been found in Paris but a heavy protective duty was imposed and later increased. Bell had not taken part in the discussion on Hofmeyr's proposal because he considered such discussion to be dealing with the banned topic of Imperial Federation but he believed that discussion of Imperial trade questions must be one of the very first steps in any discussion of Imperial Federation. Commercial federation must come before Imperial Federation and the latter could not exist without the former. He wished the Conference to approve the general principle that in matters of trade and commerce, the Australasian colonies should be placed on the same footing towards foreign countries as
 1)
 Canada.

Service drew attention to the fact that if states were allowed to act individually, there would be no uniformity but much over-

lapping and confusion, so that a dominion like Canada, authorized to make treaties, would be necessary. Bell thought the principle was the important thing and that temporary disadvantages did not count; nevertheless, he looked forward to the political and commercial union of the Australian colonies.

Uppington (Cape Colony) said that if this privilege were granted, serious complications might arise. If a colony wished to make an agreement with a foreign power which would not be for the general advantage of British trade, the British Government might have to intervene and conflicts might arise which would lead to the disruption of the Empire. Hofmeyr's scheme would avoid such happenings. Griffith considered Bell's proposal the antithesis of Hofmeyr's. It favoured foreigners at the expense of the British and was thus opposed to unity. Service opposed it because it would weaken the bonds of the Empire. He held that the principle should never have been conceded to Canada and should not be imitated.

Hofmeyr said that the question was whether permission should be given to any colony to enter into arrangements for differential tariffs with foreign powers as against the rest of the colonies. It had been granted to Canada and could not very well be withheld from the others, but it was dangerous. Its tendency was the reverse of unity and solidarity. If such a privilege had been granted to the American states, the Union would never have survived. At the same time, it was not fair that New Zealand should be excluded from the French market. "If you refuse the right, you create great dissatisfaction, and people begin to ask: What is the use of belonging to the British Empire? If you grant the right, you just¹⁾ as effectively promote the disintegration of the British Empire." The establishment of a system of differential duties was the only

solution.

Of the Canadian delegates, Campbell was absent and Fleming was not authorized to speak, so the discussion ended and, in view of the adverse opinion of the delegates, Bell withdrew his proposal.

Many other questions connected with the trade of the Empire were discussed. Some of the European countries subsidised their sugar industries by means of bounties and continental sugar was being sold in the English market more cheaply than sugar produced in the colonies. Queensland, New South Wales, Natal, Mauritius and the West Indies were affected. When the subject was brought before the Conference, representatives of the West Indies, Mauritius and Fiji attended and Mr. Neville Lubbock, chairman of the West India Committee, stated the case for the colonies. He pointed out that though the British working classes gained by the reduced price of sugar, this gain was more than offset by the decreased purchasing power of the sugar-producing colonies and he hoped that the Conference would "agree in representing to the Government:-

1. That the maintenance of the sugar bounties by European Governments is injurious to a large Colonial industry.
2. That justice to our Colonial industries and trade should be no less an object of our Government than justice to home industries and trade.
3. The hope that Her Majesty's Government will spare no effort to bring about the abolition of a system so destructive of sound and healthy competition."¹⁾

The West Indies were particularly hard hit as their attempt to find a market in the United States had been baulked when the British Government vetoed a proposed treaty between them and the United States. A Committee of the House of Commons in 1880 had reported

adversely on the bounty system but negotiations with foreign powers had been fruitless. Great Britain's adherence to Free Trade prevented the imposition of countervailing duties which seemed to be the only remedy.

The delegates supported Lubbock's resolutions and expressed the hope that the Government would, by means of a conference, come to a satisfactory arrangement with the bounty-paying countries. Most of them favoured imposing countervailing duties if bounties were still persisted in, though it was felt that this course would be repugnant to Great Britain's policy of Free Trade. In an able speech, Service, himself a free trader, criticised Great Britain's adherence to a system which, however successful it might have been when first employed, was no longer applicable under changed conditions. He felt that the question of bounties was a political one affecting the whole of the commerce of the British Empire, and therefore, the permanence of the Empire.

Lord Stanley, President of the Board of Trade, led the discussion on securing colonial co-operation in revising legislation for ensuring the safety of life at sea, while other discussions took place on the advisability of making colonial stocks an investment for British trustees, double taxation on the same property or transaction in Great Britain and in a colony, the protection of trade marks, particularly from foreign competitors, a uniform system of patents throughout the Empire, uniformity in taking the census, and the practice by which unclaimed dividends on colonial stocks were kept indefinitely in Great Britain instead of being transferred to the debtor government which could collect the interest on them until claimed. On the subject of the enforcement in Great Britain of the judgments of colonial superior courts, while the delegates agreed on the necessity for taking action, it was more difficult to decide

on the method. Finally, it was agreed that it would be best for the British Parliament to legislate for the enforcement in Great Britain of the judgments of those colonies which passed reciprocal acts to give effect to judgments obtained in Great Britain.

Marriage with a deceased wife's sister was also discussed. Children of such marriages in colonies where they were legal could not inherit real estate in England and apart from its material aspect, this was felt as a slur on those marriages and also probably a hindrance to migration. With regard to the proposal that the children of these marriages in the colonies should be allowed to inherit property in England, some delegates felt that the English inheritance law would have to be amended and that this was a change for which public opinion in England was not prepared. It was decided that the colonies would be content to have the principle recognised in the colonies by the British Parliament and it was another twenty years before the problem was settled by legislation in Great Britain.

The remaining questions were of a constitutional nature but the discussions did nothing more than allow some of the delegates to express their personal opinions as most of them had not received instructions from their governments on the subjects. The New Zealand delegates started a discussion on the governor's exercise of the prerogative of pardon and the power of dissolution.

To mark the Jubilee, it had been suggested in the House of Commons that other parts of the Empire should be placed on an equality with Great Britain, Ireland and India in respect to the Sovereign's title. When the Royal Titles Bill was debated in 1876, Childers and Forster had made a similar suggestion but it was thought that the colonies were satisfied with the existing title. In 1887, the Sovereign was "Queen of the United Kingdom of Great Britain and Ireland and Empress of India." Holland suggested the title used

once in 1858 - "Queen of the United Kingdom of Great Britain and Ireland and of the Colonies and Dependencies thereof." The Conference, subject to Her Majesty's pleasure, agreed to this with the addition of the words "and Empress of India."

The last of the twenty-two meetings of this Conference was held on May 9th, and, before the delegates separated, Griffith, as the oldest actual Minister present, spoke briefly on the work of the Conference. He referred to the advantages derived "from the interchange of opinion, and from the contact of mind with mind" and was impressed with the possible future advantages which would be derived from the example set by that Conference. Thinking, probably, of Imperial Federation, he said, "It has occurred to me that this Conference has had, in itself, many of the essential elements of a Parliament. A Parliament in its essence does not depend upon the form in which representatives are selected, or upon the manner in which its deliberations are conducted, or upon the particular mode in which effect is given to its conclusions. But I take it that a Parliament consists in its essence of an assemblage of representatives from different parts of the realm in question, met together to consider and agree to certain rules for the good guidance of the whole community. In these particulars I consider this Conference does comprise what may perhaps be called the rudimentary elements of a Parliament; but it has been a peculiarity of our British institutions that those which have been found most durable are those which have grown up from institutions which were in the first instance of a rudimentary character. It is impossible to predicate now what form future Conferences should take, or in what mode some day further effect would be given to their conclusions; but I think we may look forward to seeing this informal Council of the Empire developed until it becomes a legislative body, at any rate a consultative body, and some day,

perhaps a legislative body under conditions that we cannot just now foresee; and that, indeed, meetings such as this will before long be recognized as part of the general governing machinery of the Empire We have seen that the difficulties which in the distance seem insuperable can be easily removed when men meet together with an intention and determination to overcome those difficulties." ¹⁾

The President also hoped that there would be conferences in the future. No hint was given as to when the next conference might be held, but, presumably, it would be when circumstances seemed to demand it.

2. 1894.

Invitations to the second conference were issued by the Canadian Government in order to follow up the work commenced in 1887, particularly in connection with Imperial trade and the construction of a cable from the Pacific coast of Canada to Australia. Little headway had been made with the cable scheme owing to the opposition of the Eastern Telegraph Company which was anxious to guard its monopoly of the cable communication with Australia and which seemed to be aided and abetted by the policy of the Admiralty, the Post Office and even other departments of the British Government. In 1893, the Canadian Government, which for a number of years past had been working strenuously to have the Pacific cable constructed, sent the Minister for Trade and Customs, Mr. Mackenzie Bowell, to Australia to confer with the governments on the extension of trade between Canada and the Australian colonies and the construction of a cable. He was accompanied by Sandford Fleming, the tireless advocate of the cable scheme, who seemed only stirred to greater efforts by the difficulties he encountered. This mission was a success and the Canadian Government decided to summon a conference at Ottawa on June 21st, 1894,

for the purpose of promoting and extending trade between Australia and Canada and establishing a telegraphic cable to connect Canada with Australia and New Zealand.¹⁾ All the Australian colonies, New Zealand, Fiji and the Cape Colony were asked to send delegates while the British Government was requested to take part by sending a delegate or by such other means as might be considered advisable, in as much, as²⁾ the object in view was of an Imperial as well as a colonial character. Western Australia, Fiji and Newfoundland were not represented but besides Canada, delegates came from five Australian colonies, New Zealand and the Cape, while the British Government nominated the Earl of Jersey who had been a successful governor of New South Wales. The Colonial Secretary (The Marquess of Ripon) wrote as follows to the Governor-General of Canada (the Earl of Aberdeen): "Lord Jersey's duties will be to hear and report what passes and to give information to the Conference on matters of fact; but it will not be in his power to bind Her Majesty's Government or to express views on their behalf, as they must reserve any expression of opinion on the subjects discussed at the Conference until they have before them the report of the proceedings and the resolutions which may be arrived at."³⁾

Lord Jersey's appointment was a popular one particularly with the delegates from Australia where he was well-known. It should be noted that he did not hold the same political views as the party then in power in Great Britain - a fact which some took to mean that colonial relations were not to be regarded as subject to party politics. The part Lord Jersey took in the Conference and his report to the British Government justified the choice and did not disappoint the hopes of the delegates. A Colonial Office official attended not as a member of the Conference but to give information and to watch

1. Parl. Pap. 1894. LVI. (C. 7553) p. 353.
 2. Ibid.
 3. Ibid. p. 372.

proceedings in the interests of his department.

The New Zealand delegate, Mr. Lee Smith, described himself as a "purely commercial man."¹⁾ His government regarded the Conference entirely as a commercial one and so chose a representative who had no political position. Of the Canadian delegates, Fleming was included because of his special knowledge of the Pacific cable question, but he did not move any resolution because, as the Chairman explained, he was not in a position to pledge any Government, thus implying that the delegates who did move resolutions were in such a position. This remark reveals a difference from the 1887 Conference when the various governments were invited to nominate any distinguished men, not necessarily politicians, capable of representing them and of giving the general views of the respective colonies rather than speaking for their governments. The 1894 Conference tended to be more a conference of governments.

The opening ceremony took place in the Senate Chamber at Ottawa on June 28th, and was attended by the Governor-General and the Premier of the Dominion. The speeches made on that occasion were, on the whole, common-place but the delegates all seemed to regard this Conference as the logical sequence to the 1887 Conference in spite of minor differences. As Sir Henry de Villiers (Cape Colony) said, it was the first occasion on which representatives from every part of the British Empire had met together, not in London, but in one of the Colonies, and had been joined by a representative from Great Britain to discuss questions of interest common to them all.²⁾

As the questions to be discussed were mainly commercial, the Canadian Minister for Trade and Commerce, Mackenzie Bowell, was elected chairman. In 1887, formal resolutions were not moved as that

1. Parl. Pap. 1894. LVI. (C. 7553). p. 45.

2. Ibid. p. 43.

would have made the Conference too formal, but in 1894, resolutions were moved and were voted on by the colonies as units. Information was given to the Press by the Chairman only. The reports of each day's proceedings were printed and then referred to the individual speakers for correction or for the deletion of any remarks they did not wish to be made public.

The seeds of the preferential tariff movement sown in 1887 had been germinating with the assistance of Canadian conditions. In 1866, the Reciprocity Treaty made between Canada and the United States in 1854 had terminated, causing a certain amount of disorganisation in Canadian trade, and attempts to renew it had been unsuccessful. In 1878, Sir John Macdonald, in advocating preferential tariffs, said that Canada, though part of the British Empire which had the largest markets in the world, was not getting the benefit of those markets and asked if it were right that the United States should be permitted to exclude, by import duties, products from one part of the Empire and yet be allowed to send goods into other parts of it without any duties at all. Canada could make no practical headway with the scheme for preferential tariffs until impetus was given by the speeches of Griffith and Hofmeyr in 1887. Treaties with Belgium (1862) and the German Zollverein (1865) constituted one obstacle since they prevented the colonies from levying higher duties on the imports from Belgium and Germany than on the corresponding imports from Great Britain. In 1890, the High Commissioner for Canada and the Agents-General asked the British Government to terminate these treaties and also asked that in future no commercial treaty should be made binding on any colony without the colony's consent but that every such treaty should contain a clause enabling the colonies to participate in its provisions if they wished. The British Government was not willing to terminate the treaties but informed the colonies that a provision to this

last effect had been inserted in commercial treaties for many years¹⁾ past and that it was not likely to be omitted in the future.

Another obstacle was the fact that the constitutions of the Australian colonies prohibited them from imposing preferential tariffs²⁾ except between themselves. As Jersey said in his report, "This statutory prohibition appears to be of a very exceptional, if not of unique, character. There is nothing in the statute book to prevent Canada, the Cape, or even the Crown Colonies from making differential³⁾ conventions."

In 1891, another attempt at reciprocity with the United States having failed, Macdonald turned again to Imperial preference, a policy on which the Canadian political parties seemed to be in agreement. On September 30th, 1891, the Canadian Parliament petitioned the Queen for the termination of the most-favoured nation clauses in the Belgian and German treaties on the grounds that they were incompatible with the rights and powers conferred on the Parliament of Canada by the British North America Act for the regulation of trade and commerce; that their continuation tended to embarrass the Empire, composed as it was of colonies possessing the right to define their fiscal relations with foreign nations, the mother country and each other; that they were adverse to the interests of the Empire in that they prevented the mother country and the colonies from modifying their tariff arrangements in order to promote their trade or defend it from aggressive or injurious measures of foreign countries; and that they prevented Canada from developing by mutual concessions her markets in the British Empire, the United States and⁴⁾ foreign countries generally.

1. Parl. Pap. 1894. LVI. (C. 7553). p. 69.

2. Until 1873 (36 Vict. c.22), even these were forbidden. Ibid pp.357-359.

3. Ibid. p. 3.

4. Ibid. p. 54. IV. 7. 21.

The British Government's reply was not favourable and pointed out that the denunciation of the treaties would not of itself confer the fiscal freedom which Canada desired owing to the most-favoured nation clauses in many existing commercial treaties. These would have to be revised and a great break-up of existing commercial relations, of which Canada enjoyed the benefit, would be involved.¹⁾ On April 25th, 1892, the Canadian House of Commons tried to force Great Britain's hand by offering preference for British goods in return for preference for Canadian goods. Then towards the end of 1893, Mackenzie Bowell undertook his mission to Australia.

On April 4th, 1894, representatives of Canada, New Zealand, the Cape, Natal and four Australian colonies waited on the Colonial Secretary (the Marquess of Ripon) for the purpose, amongst other things, of impressing upon the Government the importance of an early amendment of the Act 36 Victoria c. 22. so as to enable trade agreements to be made between the colonies of Australasia and the other colonies of the Empire.²⁾ Ripon who considered it very desirable to foster as far as possible closer relations between the different parts of the Empire and who would therefore be disposed to look with favour on any proposals tending to increase the commercial intercourse of the colonies with each other,³⁾ consulted the Board of Trade on the subject. The Board agreed with the opinions expressed by the Law Officers in 1871 and 1882, that the Anglo-Belgian and Anglo-German treaties did not preclude preferential trade arrangements from being entered into between the colonial possessions of Great Britain, but according to the report of 1871, the colonies could not give preference to the goods of the United Kingdom over

1. Parl. Pap. 1894. LVI. (C. 7553) p. 148.

2. Ibid. p. 354.

3. Ibid. p. 355.

those of Germany, though they could differentiate in favour of goods of other British possessions. That meant that if inter-colonial preference were instituted, Great Britain would be treated as a foreign country, a state of affairs which would probably lead to complaints from the British industrial and manufacturing classes. The report of 1882 agreed with the view that the most-favoured nation clauses in foreign treaties did not prevent Great Britain's giving colonial produce more favourable treatment than the produce of foreign countries, but it said nothing with regard to the power of the colonies to impose lower duties on the goods of the United Kingdom than on the goods of those nations to whom Great Britain had treaty obligations. The undoubted effect of two clauses of the Belgian and German treaties was to prevent the colonies from charging lower duties on the goods of the United Kingdom than on similar goods from Belgium and Germany.

The Board, therefore, tactfully advised that it would be best only to express readiness to consider favourably any fiscal arrangements between such colonies as desired to make them, having regard in each case to geographical, as well as economic, considerations.¹⁾

For Canada, Imperial preference was the alternative to commercial union with the United States and although one of the primary objects of the Ottawa Conference was to promote trade between Canada and Australia, the wider policy of complete Imperial preference was kept before the delegates. In his Presidential Address, Bowell urged that by a judicious adjustment of tariffs a large part of the trade with foreign powers might be diverted into British channels, an object which he considered could be obtained if each colony retained perfect autonomy as regards its tariff rates, whether on a basis of free-trade or protection, with the one restriction, that on all articles

1. Parl. Pap. 1894. LVI. (C. 7553). p. 356.

on which duties were charged, uniform preferential rates on direct importations should be accorded to all members of a confederation for that purpose and to the mother country if she desired, as against the rest of the world.¹⁾

The first subject to be dealt with at the Ottawa gathering was the removal of hindrances to the establishment of commercial preference between the colonies themselves and between the mother country and the colonies. The first discussion took place on a motion by Sir Henry Wrixon (Victoria) which, in its amended form, was as follows: "That provision should be made by Imperial legislation enabling the dependencies of the Empire to enter into agreements of commercial reciprocity, including power of making differential tariffs, with Great Britain or with one another."²⁾ This was carried unanimously but the debate revealed the existence in Australia of a misunderstanding with regard to the treaty-making powers supposed to be possessed by Canada and the Cape. It was explained that no such powers existed. When Canada made commercial treaties with the United States in 1854 and with France in 1893, they were really made by the British Government on behalf of Canada. In the latter case, the Canadian High Commissioner had been associated as plenipotentiary with the British Ambassador in Paris and they had both signed the treaty on behalf of Great Britain. When Cape Colony wished to enter into a customs union with the Orange Free State and give products of that state preferential duties over the products of other countries, the bill for this purpose was refused the Queen's assent until the words "overland only" were inserted so that the agreement applied only to overland trade between the two countries and not to maritime trade.

1. Parl. Pap. 1894. LVI. (C. 7553) p. 55.
 2. Ibid. p. 82.

The delegates were agreed that colonies should not possess the power to negotiate treaties with foreign countries except through Great Britain. The exercise of such a power might lead to commercial discrimination against Great Britain, a step which all wished to avoid, and which would be dangerous to the unity of the Empire. All they were asking by this motion was that the Australian colonies should be given the power already possessed by Canada and the Cape; that of entering into commercial agreements with other parts of the Empire.

The next resolution that was carried was moved by Suttor (N.S.W.) "that this Conference is of opinion that any provisions in existing treaties between Great Britain and any foreign power which prevent the self-governing dependencies of the Empire from entering into agreements of commercial reciprocity with each other or with Great Britain should be removed."¹⁾

Sir Henry de Villiers (Cape) moved that any obstacles which prevented the self-governing dependencies of the Empire from entering into agreements of commercial reciprocity with each other or with Great Britain should be removed by "Imperial legislation or otherwise."²⁾ His reasons for doing so were that Wrixon's motion tacitly admitted that Canada and the Cape did not possess the power to make commercial agreements with each other and also that this motion would apply to treaties with foreign countries if it were decided that preferential treatment agreed upon between colonies would also apply to such countries. Fitzgerald (Victoria) also had a motion on the notice paper to the effect that the treaties with Belgium and Germany should be terminated as early as their conditions permitted "so far as regards the clauses therein specially naming British Colonies."³⁾

1. Parl. Pap. 1894. LVI. (C. 7553) p. 154.
 2. Ibid. p. 146.
 3. Ibid. p. 147.

de Villiers withdrew his motion as it was somewhat¹⁾ dictatorial in a matter of supreme importance to Great Britain," and it also admitted that the treaties stood in the way of inter-colonial agreements. Fitzgerald wanted the Conference to be definite in its requests and to be quite sure that if preferential agreements were made between parts of the Empire, Belgium and Germany would not be included by virtue of most-favoured nation clauses in existing treaties. While such treaties existed, he believed it would be difficult to establish preferential trade. Finally, Suttor's motion was found to be acceptable and Fitzgerald's being withdrawn, was carried unanimously.

The discussions on preferential tariffs came to a close with the debates on the motion of Mr. Foster (Canada) which, when amended, was as follows:-

"Whereas the stability and progress of the British Empire can be best assured by drawing continually closer the bands that unite the Colonies with the Mother Country, and by a continuous growth of a practical sympathy and co-operation in all that pertains to the common welfare: And whereas this co-operation and unity can in no way be more effectually promoted than by cultivation and extension of the mutual and profitable interchange of their products:

Therefore resolved: That this Conference records its belief in the advisability of a customs arrangement between Great Britain and her Colonies by which trade within the Empire may be placed on a more favourable footing than that which is carried on with foreign countries.

Further resolved: That until the Mother Country can see her way to enter into customs arrangements with her Colonies, it is desirable that, when empowered to do so, the Colonies of Great Britain, or such of them as may be disposed to accede to this view, take steps to

place each other's products in whole or in part on a more favourable customs basis than is accorded to the like products of foreign countries.

Further resolved: That for the purposes of this resolution the South African Customs Union be considered as part of the territory capable of being brought within the scope of the contemplated trade arrangements.¹⁾"

In introducing the motion, Foster spoke of the desire which was felt for the stability and progress of the Empire and of the increased influence and prosperity which would be assured by sympathetic co-operation. He referred to the change that had taken place during the last twenty-five years in the attitude towards the colonies and considered that the unity which was now desired depended on co-operation which could be most effectually promoted by the cultivation and extension of mutual and profitable interchange of products. Trade and commerce formed the strongest bond and all parts of the Empire should perceive the advantages to be gained by remaining in the Empire. Preferential trade would stimulate migration to the colonies and give an impetus to production so that the mother country would get her raw material from the colonies instead of from foreign countries. As to the practicability of the scheme, the effect in Great Britain had to be considered. Great Britain gave an open market to all countries and made no distinction for the colonies, though there was no theoretical reason why she should not give them an advantage. Conditions had changed since Great Britain had adopted her free trade policy. Then she had practically a monopoly in manufactures but now foreign tariff walls had been raised against her, competition had increased, sales diminished. British markets were still open to foreign competitors but Great Britain owed no

1. Parl. Pap. 1894. LVI. (C. 7553) pp. 2-3.

commercial good-will to foreign countries which would debar her from treating her colonies better. The colonial consumer was worth more to the British producer than six European consumers and the colonies had not protected their trade against the mother country to the same extent as foreign countries had. Moreover, Great Britain was dependent on outside sources for food supplies and war with a foreign country from which her food came would starve her. She should, therefore, get her food supplies from her colonies who could produce all she wanted. He urged that the colonies should enter into commercial agreements with each other without waiting for Great Britain to adopt a preferential tariff, and quoted Lord Salisbury to the effect that no country cared two straws about getting the commercial favour of Great Britain because in the battle for trade, she had deliberately stripped herself of the armour and weapons with which the battle was fought.¹⁾

The delegates showed some concern as to the effects of Imperial preference on the trade of Great Britain. It would be difficult to persuade a nation of manufacturers to put duties on raw materials, and as Thynne (Queensland) pointed out, the colonial trade was only 15% of Great Britain's total trade and she could not be expected to alter her policy for such a small amount.²⁾

Much time was spent in discussing the wording of the resolutions as some of the delegates were afraid lest the Conference should appear dictatorial in its attitude to Great Britain.

Hofmeyr raised the question of the customs agreement between the Cape and the Orange Free State and the fourth section was inserted at his request.

Instead of discussing the general principles of the motion before them, the delegates wasted time on details which Great Britain

1. Parl. Pap. 1894. LVI. (C. 7553) pp. 178-184.

2. Ibid. p. 195.

herself would have to arrange if she decided to come into the scheme. As Hofmeyr pointed out, it was best to leave the practical initiation of reciprocal customs arrangements to separate agreements between the colonies and Great Britain or between any of them.¹⁾

The four parts of the motion were voted on separately and all were passed unanimously, except the second part which was opposed by New South Wales, Queensland and New Zealand.

After this the delegates took the practical step of ascertaining what commodities could be subject to reciprocal trade arrangements between the colonies represented and though the session seemed to resolve itself into a meeting of commercial travellers each striving to out-do the other in praising the wares he had to offer, nevertheless it enabled them to take back to their respective governments some definite information on which to base a preferential tariff.

The debates on preferential trade were long and involved, sometimes technical, and often the delegates expressed themselves in such a way as to render their meaning obscure. All recognised Great Britain's attachment to the policy of free trade and realised the difficulty of trying to persuade her to change her policy, as well as the complications that would arise in her international trading relations. Most of them were unwilling to appear to dictate to her or to be trying to force unwelcome measures on her, but they agreed that the colonies should have greater advantages than foreign countries and that treaties with foreign countries which prevented the granting of such advantages should be abrogated. Much of Great Britain's foreign trade was done in goods manufactured from raw materials imported from the colonies and Forrest (Queensland) pointed out that if the colonies injured this foreign trade, the effect would recoil

1) on themselves. On the other hand, Thynne urged that the Empire should aim at self-sufficiency especially in case of war. Judging from the discussion on the details of reciprocity,²⁾ Great Britain's trade with the colonies was likely to suffer in certain commodities, at any rate, if she did not offer inducements for the colonies to continue to trade with her rather than divert their trade to each other by means of agreements.³⁾

Bowell summed up the general feeling when he said "My desire as a British subject is to see the colonies trade among themselves and with the mother country if she will let us, and if she will not allow us to give her any advantages over other countries, all I can say is, as an Englishman born, I pity her. But if she is determined not to do that, and thinks it is to her interest not to do it, all we have to say is, let her release us from the bondage under which we labour, and let us trade among ourselves. We are large enough, we are old enough, we are rich enough, and we are industrious enough to provide each other with what we require, not only for sustenance but for living in every way. I do not hesitate to say if I wanted to buy anything, I would rather buy it from my friend than from my enemy."⁴⁾

With regard to this, Jersey wrote, "I have reported that it would, in my opinion, be advisable to extend the facilities already granted for inter-colonial trade. The response to this request rests solely with Her Majesty's Government."⁵⁾

Between the conception of the idea of a cable across the Pacific to connect Canada with Australia and the ultimate realisation of the scheme stretches a long period of negotiations marked by indifference

1. Parl. Pap. 1894. LVI (C. 7553). p. 72.

2. Ibid. pp. 258-272.

3. Jersey thought that the conclusion of preferential agreements would probably not materially affect the interests of Great Britain.

4. Ibid. p. 3.

4. Ibid. p. 272.

5. Ibid. p. 17.

and even hindrance on the part of the British Government departments, active antagonism and opposition from vested interests, combined with intrigue and rivalry between the disunited Australian colonies, and relieved only by the devotion of the Canadian Government to the scheme and the untiring and unselfish advocacy of it by Sanford Fleming. Fleming³⁾ was chief engineer of the Canadian Pacific Railway and the completion of a telegraph line across Canada from east to west and the fact that the eastern terminus was connected with the submarine cables to Great Britain, doubtless suggested to him the continuation of this means of communication and the linking of Canada with Asia and Australasia by means of another cable. At any rate, he mentioned the subject to F.N. Gisborne, the Superintendent of the Canadian Telegraph and Signal Service, in a letter dated June 11th, 1879, and referred to it again in his report of the Canadian Pacific Railway on April 8th, 1880. However, a postal conference held in Sydney in January, 1877, had already authorized the New Zealand Government to ascertain if the Government of the United States would subsidize a cable between New Zealand and the United States. The resolution to this effect was sent to the Colonial Office and the scheme was reported on by Vogel and Michie, the Agents-General for New Zealand and Victoria respectively. Of the five routes proposed, four were by way of Asia and one was from San Francisco via Honolulu. This last was considered impracticable owing to the depth of the ocean, the difficulty of repairs and other obstacles.

On June, 7th, 1880, the Canadian Government granted Fleming permission to land a cable from Asia on the Pacific coast of Canada and on the 27th, he forwarded a memorial to the Governor-General asking that the British Government should acquire one of the Kurile Islands for use as a cable station so that the proposed cable would be able to

1. Born at Kirkcaldy, January 7th, 1827.

connect London with India, Australasia, South Africa and other parts of the Empire without passing through foreign territory. The Canadian Government approved but the British Government refused though it was ascertained that the Japanese Government did not object to landing the cable at a suitable point in Japanese territory. In 1881, the Canadian Parliament granted Fleming permission to form a company with the exclusive privilege of landing cables on the Pacific coast for twenty years on condition that telegraphic communication was completed within two years and that the rates were subject to the approval of the Governor-General-in-Council. Evidently progress was slow, for a minute of the Canadian Privy Council of July 26th, 1882, was addressed to Fleming informing him that in consequence of the war cloud over Egypt, the time was most opportune for promoting the Asiatic cable scheme for which he had obtained a charter; that such a cable would be of immense value not only to commerce, but to the defence of the Empire; and that as Canada was interested in the scheme its Government would assist him.

In 1884, Canada asked the Admiralty to survey the proposed cable route but the Admiralty replied that no suitable vessel was available. Canada found one, whereupon the Admiralty replied that a survey would be too expensive. Fleming and another offered to pay half the cost but still the Admiralty refused.

By this time, Fleming evidently had doubts as to the necessity of following the northern route. In a minute of the Canadian Privy Council, June 8th, 1886, he stated that the governments interested in the cable were those of Canada, Great Britain, New Zealand, the six Australian colonies, Hawaii and Fiji. He also stated that some of the Australian colonies were favourable to a terminus in British Columbia instead of at San Francisco, and as Canada was so interested, the High Commissioner should take advantage of the Indian

and Colonial Exhibition in London to get the views of the various governments. In a letter to Sir John Macdonald (October 20th, 1885), Fleming said that at first he believed that the nature of the ocean bed would prevent a direct route for the cable across the Pacific but he was beginning to doubt if that were so. A company to carry out the proposal would require an annual subsidy of £100,000, which might be divided as follows: Great Britain, India and the Crown Colonies, £50,000; Canada, £10,000; Queensland, New South Wales and Victoria, £10,000 each; New Zealand, Tasmania and Western Australia, £10,000 between them.¹⁾

Fleming was still collecting data when the first Colonial Conference was summoned. When the cable question was discussed, the antagonism of the existing companies was manifested in no mistakable manner. They were alarmed at the prospects of competition which would force them to reduce their rates and their dividends. They cried out that to subsidise competition against the pioneers would be unfair, that the Pacific cable was unnecessary and impracticable. They took advantage of the disunion in Australia to make financial arrangements with individual colonies in order to prejudice them against the proposed rival and English sympathies were always with private enterprise. The discussions at the Conference and Sir. A. Campbell's resolutions have already been mentioned but the scheme received no encouragement from the British Government officials, except Raikes, the Postmaster-General. The Indian Government was also opposed because an alternative route would lessen its income²⁾ from the charges on the Indian land section of the cable to Australia. Nevertheless, the Conference had expressed a desire for a survey and Fleming was determined not to let the matter be forgotten. On May

1. Parl. Pap. 1894. LVI. (C. 7553). p. 294.

2. Ibid. p. 291.

6th, 1887, the delegates to the Conference forwarded a letter to the Colonial Office requesting the Government to have a survey made in order to ascertain the practicability of laying the cable¹⁾ and, on June 3rd, Fleming was informed by the Colonial Office of the Admiralty's answer - that unless the Secretary of State had reason to believe that a submarine cable was likely to be laid from Vancouver to Australia very shortly, their Lordships would not propose to dispatch a surveying vessel for the sole purpose of obtaining soundings over the route, but they would endeavour to arrange that soundings should be gradually obtained during the next few years in the ordinary course of hydrographic surveys.²⁾ This meant that a vessel would be dispatched to Australian waters the following year and while there, the officers, in the course of their ordinary duties, would endeavour to obtain any information that would be useful in connection with the laying of the cable. Fleming was rightly indignant at this reply and protested at the action (or inaction) of the Admiralty. The cable had been "imperatively demanded" by the delegates and it was therefore of the "utmost importance that the request of the delegates to the Conference made collectively and individually on behalf of their respect Governments should be reconsidered."³⁾

The protest was of no avail and the Colonial Office informed the Governor-General of Canada (July 12th) that as there was not sufficient prospect of the necessary funds being available for the maintenance of a cable across the Pacific, even if the ocean bed to be traversed proved exceptionally favourable, it would be impossible to justify heavy expenditure in pushing the survey, but, if the Colonial Governments would provide the funds, the Colonial Secretary would⁴⁾ be in a better position to urge the Admiralty to hasten the survey.

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1. Parl. Pap. 1894. LVI. (C. 7553). p. 287.
 2. Ibid. p. 288.
 3. Ibid. p. 289.
 4. Ibid. p. 291.

In reply, Lansdowne (Governor-General of Canada) forwarded the Pacific Telegraph Company's amended proposal. In return for a subsidy of £75,000 for 25 years, half to be paid by the British Government and the other by Canada and the Australasian colonies (except South Australia), the Company undertook to lay a cable from Vancouver Island to Australia, touching at Hawaii, Fanning Island, Samoa, Fiji and New Zealand, and to transmit messages at a rate not exceeding 4/- per word.¹⁾ The Colonial Office would not give way but suggested that the Canadian Government should seek the financial co-operation of the Australian governments in connection with the survey and the establishment and maintenance of the cable, with or without Imperial co-operation.²⁾

At a postal conference of all the Australasian colonies, held in Sydney in January, 1888, it was resolved to ask for a survey to be made at the cost of Great Britain, Canada and the Australasian colonies. New South Wales dissented and South Australia refused to contribute to the cost. The Government of South Australia also forwarded to the Colonial Office a report from its Postmaster General (Todd), which was very antagonistic to the Pacific scheme, but as South Australia was vitally interested in the existing cable, this report is easily accounted for.³⁾ At the same time it affords a good example of the predominance of sectional interests amongst the Australian colonies of which the existing companies took advantage and which did so much to delay the construction of the cable.

Victoria requested the Colonial Office to urge the Admiralty to make an early survey and on March 16th, 1888, the Colonial Office went so far as to ask the Admiralty for "an approximate estimate of the probable cost of a survey."⁴⁾ The Admiralty was able to reply

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1. Parl. Pap. 1894. LVI. (C. 7553). pp. 293-4.
 2. Ibid. p. 295.
 3. Ibid. p. 303.
 4. Ibid. p. 299.

by April 4th, and three days later the Colonial Office was informed that the "Egeria" was about to leave Sydney on survey work amongst the islands between New Zealand and Vancouver and that in two or three years' time they would be able to furnish more detailed information as to the depths to be expected on the general line of the cable. No other vessel was available so the question of hastening the survey would have to remain open until the Colonial Office could inform the Admiralty that there was a reasonable prospect of finding funds for the construction of the cable. The annual cost of a survey ship was £12,000, irrespective of the value of the vessel and the cost of fitting her out, and the survey would take three years.¹⁾ This reply the Colonial Office sent on to the Governor-General of Canada and the Governors of the Australasian colonies.

The Colonial Office correspondence reveals the attitude of the Eastern Extension Telegraph Company of which Sir John Pender was chairman. On November 17th, 1888, he wrote in a friendly strain to the Colonial Secretary to inform him that the Australian governments did not appear to be much affected by the excitement which the promoters of the Pacific cable were trying to stir up. His company did not object to a government subsidy for a Pacific cable for strategical purposes as long as the existing cables were treated similarly. In an amusing tone of self-righteousness, he reported that the Company was laying down, without any subsidy whatever, 3,000 miles of cable on the west coast of Africa, partly to meet the wishes of the Government for strategical purposes. As the Government had had no ships available for surveying the route, the Company had borne the cost itself and was now forwarding a copy of the soundings to the Colonial Office as "a very good argument when other people ask for national money for such purposes."²⁾ Neither the construction of a cable, whether new or duplicate, nor the reduction of rates, without a

1. Parl. Pap. 1894. LVI. (C. 7553) p. 300.

2. Ibid. p. 304.

subsidy, was usual with the Company so there is no wonder the Chairman felt impelled to write to the Colonial Secretary about it. From other communications, we learn that owing to an interruption lasting 12 days in the Sydney-New Zealand cable, this line was duplicated in 1890¹⁾ without a subsidy, but with the hope, expressed to the governments of New South Wales and New Zealand, that the Company would be protected from un-necessary competition.²⁾ Thus the proposal to build the Pacific cable was beginning to benefit the colonies by causing the Company to improve its services.

In September, 1889, the Canadian Government once more stirred the Colonial Office and the Admiralty with regard to the survey. The United States already had two routes surveyed between San Francisco and Hawaii, and though a British ship was surveying west of Hawaii, of which region the Government already had sufficient information, nothing was being done between Hawaii and Vancouver. The Canadian Government, therefore, asked if the Admiralty would do something in the matter, but My Lords adhered to their decision of the previous year. The "Egeria" was busy in the south-west portion of the Pacific and could not be transferred elsewhere.³⁾

The following year, the telegraph companies proposed to reduce their rates on condition that the Imperial and Australasian Governments joined in guaranteeing a certain revenue. If the proposal were accepted, the Governments would have to pay about £54,000 a year for ten years. On June 26th, 1890, Fleming wrote to the Colonial Office protesting against such a proposal. He objected to supporting and maintaining the monopoly, especially in the face of the resolutions passed by the 1887 Conference and suggested that the best way to bring about a reduction in charges was to hasten the construction of the Pacific cable, for the completion of which the proposed subsidy

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1. Parl. Pap. 1894. LVI. (C. 7553) p. 313.
 2. Ibid. pp. 309-310.
 3. Ibid. pp. 310-311.

together with the Canadian contribution would be almost sufficient.¹⁾
 The High Commissioner wrote in a similar strain. (July 1st, 1890).
 The Colonial Office was able to state that the Government felt
 precluded by considerations of principle from joining in the proposed
 guarantee²⁾ but all the Australasian governments, except those of
 Queensland and New Zealand, did enter into a ten year contract with
 the Companies by which the rate for ordinary messages was reduced
 from 9/4 to 4/- per word; for government messages, from 7/- to 3/6,
 and for press messages from 2/8 to 1/10, the governments agreeing to
 make good half of any loss sustained. The volume of traffic increased
 by over 50% and the subsidy for the first year amounted to £27,520.
 Owing to financial depression, the governments had the rate for
 ordinary messages raised to 4/9, with the result that the next year's
 payment was reduced to £21,778.³⁾ But as a result of this agreement
 it was not likely that the governments concerned would give support
 to the Pacific cable, which, by competing with the subsidised
 companies, would decrease their business and thus involve an
 increased subsidy.

In July, after the occurrence of an interruption in cable
 communication with Australia, Pender extended an olive branch to
 Fleming, stating that he was quite prepared to co-operate in carrying
 out cable communication between Canada and Australia on fair and
 reasonable terms, though he mentioned a number of difficulties which
 would arise if the undertaking were separate and distinct from existing
 lines. Fleming scored neatly off all Pender's arguments and made it
 quite evident that the last thing he wanted was that the existing
 Companies should have anything to do with the Pacific scheme.⁴⁾

On October 25th, 1892, the Association of Chambers of Commerce

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1. Parl. Pap. 1894. LVI. (C. 7553). pp. 314-316.
 2. Ibid. p. 317.
 3. Jebb. The Imperial Conference. Vol. I. p. 144.
 4. Parl. Pap. 1894. LVI. (C. 7553). pp. 317-319.

of the United Kingdom wrote to the Colonial Office in support of the scheme and urged assistance both for Imperial and commercial purposes,¹⁾ but received no encouragement. Two months later, the Canadian Government, at the request of the Ottawa Board of Trade, pressed the Colonial Secretary (the Marquess of Ripon) to co-operate in the appointment of a commission to inquire into "the most feasible means of completing the telegraphic system of the Empire," but Ripon raised many objections and in spite of his assertion that the Government took a great interest in the matter and would welcome any proposal which would afford a practical solution of this question²⁾ would not agree to summoning a conference on the subject.

At the same time, Canada's inquiry as to the progress of the "Egeria's" survey elicited the information from the Admiralty,³⁾ through the Colonial Office,⁴⁾ that press of circumstances had compelled her removal in 1890. Information had been obtained about the southern part of the route revealing fairly even and not excessive depths but no soundings had been taken on the long northern section between Fanning Island and Vancouver, about which the promoters of the cable were particularly concerned.⁵⁾

Meanwhile, the Governments of Queensland and New South Wales created a stir early in 1893 by entering into an agreement with a French company for the construction of a cable from Queensland to New Caledonia, which was to form the first link of communication with North America. The Government of Victoria protested against this action because it was taken independently of the other colonies, and since the cable would pass through foreign territory, it was not in

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1. Parl. Pap. 1894. LVI. (C. 7553) pp. 319-321.
 2. Ibid. pp. 321-324.
 3. March 30th, 1893.
 4. April 29th, 1893.
 5. Ibid. pp. 324-325.

keeping with the spirit of the 1887 Conference.¹⁾ The letter of the French company's representative (Audley Coote) to the Colonial Secretary contained some interesting statements. "The aim has been for the last 19 years to break a growing and ungenerous monopoly in the telegraph world, and, now that we have so far succeeded, the secret allies of the Eastern Extension Telegraph Company are agitating in the press, and the minds of public men, in some parts of Australia, to try and prevent the Pacific Cable being a success; it is not because the cable touches at New Caledonia, it is because it is opposing the Eastern Extension Telegraph Company New Zealand desires the Pacific Cable to start from her shores but that colony is bound hand-and-foot to the Eastern Extension Telegraph Company, and only last year the New Zealand Government, when much perplexed as to the rates over their cables asked me to make them an offer to lay a cable and get them out of their difficulties. ... The offer was made, with a guarantee of half-rates, when the opposition company reduced their rates by one half and negotiations²⁾ ceased."

This transaction called forth a letter from Ripon to the Governors of the Australasian colonies in which he wrote, "While regarding with satisfaction on general grounds the approaching telegraphic connection of Australia with New Caledonia, Her Majesty's Government cannot but view with regret the action taken by the Governments of Queensland and New South Wales, as it implies a departure from principles with regard to Colonial cohesion and the consideration of Imperial interests to which prominence was given in the discussions of the Colonial Conference of 1887, and, as it appears, diminishes the chance of their assistance in laying any future Pacific cable, passing through British Possessions or

1. Parl. Pap. 1894. LVI. (C. 7553) pp. 325-327.

2. Ibid. p. 327.

protected territory and avoiding the possessions of European Powers. Her Majesty's Government share the views expressed by the Victorian Government that inconvenience, loss, and indeed danger to both Colonial and Imperial interest might arise in time of war if the Pacific cable passed through New Caledonia, and they cannot, from an Imperial point of view, regard with approval an arrangement under which such cable could touch foreign territory.¹⁾

In September, 1893, the Canadian Government sent their Minister for Trade and Commerce (Mackenzie Bowell) to Australia to confer with the governments on the subjects of inter-colonial trade and the cable. The fact that no conference on the subject of the cable had yet been held between representatives of Canada and Australasia was not due "to the inherent difficulties attaching to the enterprise" as the Colonial Office suggested,²⁾ but to the difficulty of arranging a suitable time and place owing to the press of political business, particularly in connection with the proposal of federation in Australia. Four days after the Colonial Office was informed of the Canadian mission to Australia, Ripon, without being requested to do so, sent to the Governors of the Australian Colonies copies of Colonial Office correspondence with the Admiralty and the Post Office. The tone and tendency of the reports was discouraging and peculiarly antagonistic to the Pacific scheme and conveyed the impression that the new line was not required and was next to impracticable. Considering the objects of the Canadian mission, the receipt of such reports during their visit to Australia was, as Fleming said, "an unhappy coincidence."³⁾ McIlwraith of Queensland expressed his surprise when, after being "adversely criticised" in connection with

1. Parl. Pap. 1894. LVI. (C. 7553). p. 335.

2. Ibid. p. 321.

3. Ibid. p. 346.

the cable to New Caledonia on the grounds that its construction was unfavourable to the chances of a future cable, exclusively British, he found from the reports, forwarded to him by the Colonial Office, that the Pacific route to Vancouver was impracticable.¹⁾ The report from the Postmaster-General, Fleming said, was inaccurate and misleading, while the report of the Hydrographer of the Admiralty was dated February 27th, 1887. It was seven years old and much advance had been made since then. Fleming had accompanied the Canadian Minister to Australia at his own expense in order to further the cable scheme and get information first-hand with regard to such questions as the working of the existing cables and the attitude of governments and business men to the Pacific cable. On October 11th, 1893, he drew up a memorandum on the Pacific cable. He mentioned four routes all of which would pass only through British territory provided the British Government annexed Necker Island, a small uninhabited island 240 miles west of the Hawaiian Group. The cost was estimated at from £1,380,000 to £1,678,000, according to the route followed. He advocated government control to secure economy, efficiency and low rates.²⁾ This memorandum was sent to the Colonial Office and on January 3rd, 1894, Pender appealed to the Colonial Office to be allowed to co-operate with the Home and Colonial Governments in carrying out the work. In spite of the tremendous difficulties which he said would be encountered in constructing the Pacific cable, Pender was extremely anxious not to let go the monopoly which his companies had over cable communication with Australasia. The route he proposed as the shortest, cheapest and most advantageous was not all-British.³⁾

1. Parl. Pap. 1894. LVI. (C. 7553). p. 345.

2. Ibid. pp. 337-344.

3. Ibid. pp. 347-349.

Meanwhile, by an agreement dated October 28th, 1893, the Eastern Extension Telegraph Company had strengthened its monopoly by having Canada and the Australasian colonies telegraphically excluded from Hong Kong and forbidden to lay or assist in laying any new cable to that port for 25 years. Extensions to Great Britain's eastern possessions had been regarded as probable developments once the Canadian-Australian cable was laid, but the Company got in first.¹⁾

From Australia, Fleming went on to London where on April 4th, 1894, representatives of Canada, New Zealand, the Cape, Natal and all the Australian colonies except South Australia and Western Australia, interviewed the Colonial Secretary with regard to the annexation of Necker Island and substantial assistance from the British Government towards the cost of laying and maintaining the proposed cable.²⁾ Evidently they did not know that on December 23rd. the Foreign Secretary (Lord Roseberry) had informed the Canadian Government that no action would be taken until the Government of Hawaii was established on a more permanent footing. Necker Island was much nearer to Vancouver than Fanning Island and landing the cable at the former would not necessitate such a long, uninterrupted stretch. When the British Government would not annex the island, Fleming planned a little expedition to do so and thus force the Government's hand but his secret became known and the Hawaiian Government forestalled him.³⁾

A further attempt on the part of the Canadian Government to get information about the "Egeria's" survey only resulted in what Jebb calls an "anti-imperial snub" from the Admiralty.⁴⁾ The High

1. Ewart: Kingdom of Canada. p. 279.

2. Parl. Pap. 1894. LVI. (C. 7553). p. 354.

3. The story is told in detail in Johnson: Annals and Aims of the Pacific Cable and in Burpee: Sanford Fleming, Empire Builder.

4. The Imperial Conference. Vol. 1. p. 155.

Commissioner asked for a copy of the instructions issued by the Admiralty with regard to the survey and the reply stated that "their Lordships do not propose to communicate the text of the 'Egeria's' instructions for the information of Colonial Governments." ¹⁾ As no reason was given for the refusal, and in view of the attitude of the British officials generally, one cannot help thinking that the Admiralty wished to conceal the form which their opposition actually took.

Once more, an Australasian postal conference held in Wellington early in 1894 supported the Pacific scheme but expressed the desirability of the governments interested in the scheme entering into an agreement to guarantee interest for 14 years on the capital expended.

Thus matters stood when the Conference assembled at Ottawa, and Suttor (N.S.W.) introduced his motion. "That in the opinion of this Conference steps should be taken to provide telegraphic communication by cable free from foreign control between the Dominion of Canada and Australasia." ²⁾ Suttor's speech was mainly historical and summarised the events I have just related. The cable would stimulate and facilitate commercial intercourse, reduce the cost of cable messages between Canada, the United States and Australasia, and would assist in defence. It had, therefore, a national character, and all parts of the Empire should assist. The construction might be carried out by a company liberally subsidised or as a public work under government control, the cost being shared by the governments concerned. New South Wales favoured the former method. There was no intention of destroying the business of the existing companies but rather of doubling the means of communication. Fleming had

1. Parl. Pap. 1894. LVI. (C. 7553). pp. 350-351,
2. Ibid. p. 84.

suggested that the cable should be constructed by Canada, Australasia and Fiji but Suttor wished to see it made thoroughly Imperial by the participation of Great Britain, especially as Fiji was a Crown Colony. Referring to the difficulties mentioned in the Naval Hydrographer's report in 1887 and in a report by the Secretary of Telegraphs for New South Wales, he urged that a preliminary survey of the route was essential.¹⁾

Then followed Fleming with a carefully-reasoned paper. First he tackled the opposition of the Companies as set forth in Pender's letter of April 4th, 1894, to the Colonial Office, copies of which were sent to the Canadian Government on April 14th, and to the Australasian Governments on April 16th. Pender stated that the existing service was adequate; that his Companies had received little government aid; that the Pacific cable was not required; that, if it were built, it would need an annual subsidy of £190,000, and would injure the present Companies which the governments should, therefore, subsidise, and finally, that if it were decided to build the Pacific cable, his Companies should be allowed to do it. The President, later in the debate, summed up Pender's attitude by saying, "He makes three distinct statements: first, that it cannot be built; second, if built it will not pay; and third, if it is to be built, he wants to build it."²⁾

Fleming pointed out that the Company had already received £616,250 from Australia and New Zealand whose governments were also under an obligation to pay £32,400 a year for the next 5 years. Further sums were also payable by some of the colonies and, in addition, high rates were demanded from the public. The Company was in a position to pay a dividend of 7% on its watered capital or over

1. Parl. Pap. 1894. LVI. (C. 7553) pp. 84-91.
 2. Ibid. p. 137.

9% on its original capital. If the cable were not built by British governments, it was probable that France or the United States would step in and do it. Fleming estimated that in from 4 to 7 years, the receipts would show a surplus over the expenditure as the expansion of trade and commerce between Australasia and Canada and the needs of the Empire demanded a Pacific cable. Moreover, Australia was in a good position for extending the cable system to other parts of the Empire without passing through foreign territory, thus avoiding the danger of the cables being cut in time of war. He favoured the work as a government undertaking. The interests of a company and the public interests were not identical, in fact, they were often opposed. A company wished to make as much profit as possible, whereas public interests demanded cheapness and freedom. Governments, too, could borrow at lower rates. He repeated the proposal he had made at the 1887 Conference embracing (1) the establishment of the Pacific cable; (2) the purchase of all the cables of the Eastern Extension Company; (3) the transfer of all the telegraphs of the separate Australian colonies, together with the Pacific cable and the Eastern Extension cables to a trust or commission created by the co-operating governments.¹⁾

Playford explained South Australia's attitude. His government would not oppose the construction of the cable for Imperial purposes but, if it were subsidised by the various governments, he hoped South Australia's peculiar position would be taken into account and her losses minimised. In 1870, when the Eastern Extension Company, brought a cable from Singapore via Java to Port Darwin, South Australia whose population then was just over 200,000, built an overland line to meet it, thus connecting the other colonies with the cable system. The line was 2,000 miles long and cost over half a

million pounds to build. By 1893, the net loss to South Australia after twenty-one year's working was nearly £300,000, which had to be borne by about 340,000 people. When, after the 1887 Conference, a reduction was made in cable rates, South Australia reduced the rate on the land line from 1/1 to 5d. a word, the other colonies sharing¹⁾ in making up the loss sustained. South Australia also built, at a cost of £70,000, a land connection with Western Australia, the revenue from which did not pay interest on the capital expended. In addition, South Australia subsidised at the rate of £1,000 a year, the Western Australian line to Roebuck Bay connecting with the Eastern Extension Company's cable from Java. Playford also gave his own private opinion stating that he did not consider the Pacific cable necessary for connecting the two continents. The existing cables could do five times the amount of work they were doing and there were sufficient alternatives and duplicates in case of need. The colonies were already paying a great deal for cable communication and he predicted that there would never be a big trade with the Pacific Islands. If the cable would be of strategic value, why, he asked, had there been no support from the War Office? He, too, considered a thorough survey necessary and backed up his arguments by quoting Sir Charles Todd²⁾ who was in charge of the South Australian telegraphs.

Honolulu's interest in the scheme was shown by the presence in Ottawa of Mr. T.H. Davies, a representative of the Honolulu Chamber of Commerce. He was allowed to address the Conference and assured the delegates that, if the cable were landed in the Hawaiian group rather than on Necker Island, the undertaking would have the sympathy of the Hawaiian Government. Much cable business was likely to be done in

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1. Loss in 1891 - £10,414; in 1892-93, loss - £7,675, to which the other colonies contributed £9,213 and £6,816. The payments of the colonies to the Eastern Extension Company owing to loss following reductions in rates were £27,540 and £21,778.
 2. Parl. Pap. 1894. LVI. (C. 7553). pp. 104.-115.

the port of Honolulu and trade between Honolulu and Canada and Australasia would increase. He quoted a report on Necker Island¹⁾ to show its unsuitability for a cable station.

Thynne spoke for Queensland. He believed an alternative route was necessary and the arrangement with a French company for a cable to New Caledonia did not prevent Queensland's co-operation. He criticised Playford's authorities as interested parties and considered that South Australia was not being treated fairly, for while that colony was losing money, the cable companies were making large profits. The governments should assume that the route was practicable. From a strategic point of view, if the cable were sound for a week after the declaration of war, it would fully repay the cost, but in any case, special ships were needed for cutting ocean cables.

The debate becoming somewhat discursive, Jersey reminded the delegates that they should ascertain the importance of the cable from an Imperial and commercial point of view, decide whether they were in favour of a cable under exclusive British control and whether they were prepared to pledge their Governments to share the costs of survey and construction.

Opinion was divided as to whether the cable would be of greater value strategically or commercially. Sir Charles Mills (Cape) illustrated the strategical value of cables in a time when war was brewing by the experience of the Cape during the Russian war scare²⁾ in 1885 when Russian ships were actually in South African waters. Lee Smith (N.Z.) referred to the amount of business that was transacted by cable, or affected by prompt information received by cable, particularly in dealing in grain.³⁾

1. Parl. Pap. 1894. LVI. (C. 7553) pp. 116-120.

2. Ibid. p. 142.

3. Ibid. p. 133.

Suttor's motion was carried unanimously, South Australia refraining from voting.

Foster moved: "That the Imperial Government be respectfully requested to undertake at the earliest possible moment, and to prosecute with all possible speed, a thorough survey of the proposed cable route between Canada and Australia, the expense to be borne in equal proportions by Great Britain, Canada and the Australasian colonies."¹⁾

Nearly every delegate considered a survey of the route to be essential. If this were made, some estimate of the cost of construction could be formed, thus enabling the scheme to be advanced to a practical stage. The British Government's excuse for not proceeding with the survey when requested to do so by the 1887 Conference was that there was no likelihood of the money for the construction of the cable being forthcoming. The Colonial governments required the survey first before they could give any assurance as to construction and so deadlock ensued. In his report, Jersey remarked, "The discontinuance of the survey was commented on and great disappointment was expressed by the delegates that the request of the Conference of 1887 had been so imperfectly met."²⁾ In 1887, the British Government had been asked to pay for the survey but now it was proposed that the cost should be shared by the Governments of Great Britain, Canada and the Australasian colonies.

³⁾
Foster's motion was carried.

Opposition to holding up the scheme while waiting for the results of a preliminary survey came from Lee Smith who declared that if tenders were called immediately for the construction of the cable, there would be no lack of offers. He moved that the Canadian Government should draw up plans and specifications and call tenders

1. Parl. Pap. 1894. LVI. (C. 7553). p. 168.

2. Ibid. p. 11.

3. Ibid. p. 167.

for the construction, expenses in connection therewith being borne by Canada and the Australasian colonies, and if the tenders were unsatisfactory, the work should be carried out by the governments concerned.¹⁾ This attempt to expedite the work, spur Great Britain to action and dispel what he called "the bogey of survey" was unsuccessful, the motion being defeated.²⁾

On Thynne's motion that the construction and maintenance of the cable should be undertaken by the Governments of Great Britain, Canada and the Australasian colonies as a joint national and public work,³⁾ there was again division of opinion. Lee Smith believed a company would do the work in one-fifth of the time the governments would take and Suttor held that government work was always more costly. The Canadians favoured a government undertaking for three main reasons: (1) a company's interests were often divergent from those of the people supporting the cable; (2) those who use and support the cable should have the control and benefit of it; (3) if it were a failure, it would not be borne by private individuals; if a success, it would not become a monopoly. Playford's arguments in favour of a government undertaking were that lower rates would be charged because there would be no dividends to pay and that if government subsidies were withdrawn from a company, monopoly rates would be charged.⁴⁾ In view of the opinions expressed, Thynne withdrew his motion as it was thought that to state definitely how the work was to be undertaken before even a survey had been made might hinder the success of the whole scheme.⁵⁾

The Cape delegates all along showed sympathy towards the cable project. The cables between the Cape and Great Britain all passed

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1. Parl. Pap. 1894. LVI. (C. 7553). p. 146.
 2. Ibid. p. 169.
 3. Ibid. p. 162.
 4. Ibid. p. 165.
 5. Ibid. p. 172.

through foreign countries and were laid in shallow water with frequent landings so that there was every likelihood of isolation from the mother country in time of war. For this reason, they were anxious to have an all-British route. In addition, competition with another cable, whether government or private, would lead to a reduction in the high rates charged by the Eastern Telegraph Company. Mills, therefore, moved, "That it is for the interest of the Empire that, in case of the construction of a cable between Canada and Australasia, such cable should be extended from Australia to the Cape of Good Hope; and that, for that purpose, arrangements be made between the Imperial and South African Governments for a survey of the latter route."

1)

This was agreed to.

Fraser (Victoria) moved "That in view of the desirability of having a choice of routes for a cable connection between Canada and Australasia, the Home Government be requested to take immediate steps to secure neutral landing ground on some of the Hawaiian Islands, in order that the cable may remain permanently under British control."

2)

According to the minutes of the proceedings, this was carried unanimously though there is no report of it in the debates.

3)

In his report, Jersey said that this resolution did not mean that the Conference favoured the route via Hawaii but merely that it was desired to keep the cable all-British. Even the commercial advantages Honolulu had to offer were outweighed by the desire to keep the cable free from any likelihood of foreign interference. A definite route would be fixed after the receipt of expert information and advice.

4)

It was felt that after all the discussions and in spite of the resolutions passed, unless definite steps were taken to carry out the

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1. Parl. Pap. 1894. LVI. (C. 7553). p. 170.
 2. Ibid. p. 145.
 3. Ibid. p. 30.
 4. Ibid. pp. 13-14.

wishes of the Conference after the delegates had returned to their respective colonies, their proposals would not be worth the paper they were written on. "It has been hitherto found to be the case," said Wrixon, "and I think it will occur again, that after this Conference closes, there will be nobody to carry on the continuity of the business. The whole thing is apt to lapse and disappear until the next Conference unless someone takes it in hand to carry on the technical, practical business."¹⁾ He thought someone should be designated to act in questions of practical detail, communicate with the different governments and form a link of communication between them with regard to after matters. He wished to name Fleming to do this but the majority thought the work would carry more weight if it were placed in the hands of a member of one of the governments. It was, therefore, agreed to leave this duty to the President who would consult Fleming on all matters connected with the cable.

Fitzgerald moved that immediate steps should be taken to construct a cable from Australia to Fiji as the beginning of the Pacific cable, the cost to be shared by Great Britain, Canada and the Australasian colonies. He thought such a step would show the earnestness of the colonies and hasten the completion of the whole scheme, but the other delegates thought it would have quite the contrary effect so the motion was withdrawn.²⁾

The fifth motion passed in connection with the cable was moved by Thynne: "That the Canadian Government be requested after the rising of this Conference, to make all necessary inquiries and generally to take such steps as may be expedient in order to ascertain the cost of

1. Parl. Pap. 1894. LVI. (C. 7553). p. 170.
 2. Ibid. pp. 174-177.

the proposed Pacific cable and promote the establishment of the undertaking in accordance with the views expressed in this Conference" ¹⁾ This motion, which was carried unanimously, was of great importance as it was the means of ensuring the success of the cable scheme. It was really what Wrixon had in mind when proposing his resolution. The Canadian Government was to keep the ball rolling. The survey alone would not be sufficient. It would have to be followed by estimates of costs, plans and specifications, the choice of a route, perhaps negotiations for a landing place in the middle of the Pacific. The High Commissioner and the various Agents-General would keep in touch with each other in London and the various governments would be kept informed of developments as they took place. The resolutions were not going to die from inertia and indifference as those of 1887 had.

Before leaving the discussions on this subject, it is interesting to notice the effort made by Lee Smith to substitute the words "Australia and New Zealand" for "Australasia" in Suttor's motion. His motive was not jealousy but a desire to correct the impression that New Zealand was part of Australia and he quoted instances to show the ignorance that prevailed with regard to those countries. He felt quite sure that New Zealand would never enter the Australian federation. On this occasion, because of the difficulties that might arise if the amendment were carried, he was content to register his protest and did not press the amendment, ²⁾ but later his motion "That if the words 'Australasian Colonies' be used in any motions or amendments that may be brought before this Conference they shall mean the colonies of Australasia and the Colony of New Zealand" ³⁾ was agreed to.

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1. Parl. Pap. 1894. LVI. (C. 7553). p. 252.
 2. Ibid. pp. 99-102.
 3. Ibid. p. 173.

In his report, Jersey drew attention to the general nature of the resolutions with regard to the cable. The Conference did not commit itself to any definite opinion on the numerous questions that would arise as soon as the principle of the desirability of the cable had been admitted. "This no doubt, appears unsatisfactory from the point of view of those who desire to see the solution of the question advanced with rapidity and certainty; but, while some individual views were put forward with much force and clearness, the general feeling was that, as the Conference was merely a consultative body, it was undesirable to do more than formulate the general objects, without hampering the future consideration of the subject by resolutions to which later information or special convenience, might be opposed."¹⁾ For example, the Conference felt that a survey was the first step as no exact estimate could be attempted until it had been made. In expressing the hope that the British Government would assist, Jersey pointed out that much of the survey would have to be done sooner or later by the Admiralty in any case and great disappointment would be felt if the Government declined to co-operate in the manner proposed in the execution of this preliminary step. Partial soundings would probably be sufficient, especially in view of the use of scientific devices which indicate continuously the percentage of slack with which the cable is paid out, thus making it possible to lay²⁾ a cable over a route of which only the general features are known.

Apart from the preference expressed for a route wholly in British territory, the Conference thought it better to wait to make a final choice until they had received expert information or advice and the views or recommendations which the British Government with the valuable professional assistance at their command, might in due course

1. Parl. Pap. 1894. LVI. (C. 7553). p. 11.
 2. Ibid. p. 12.

be able to offer. That Jersey was strongly in favour of the new cable for strategical reasons is shown by the following paragraphs from his report:-

"I will only remark that I cannot understand how two different routes, one eastern, the other western, joining Great Britain and her Australasian Colonies can fail at critical moments to be more useful than one; and that it is a not unreasonable proposition that a cable, passing solely through British territory and water comparatively secure from attack, must give greater strategical advantages than lines which pass through European or Egyptian territories, with their constant liability to warlike complications.¹⁾ And again "I must, however, repeat that an alternate line of communication with Australasia and the Pacific should have strategic as well as commercial advantages. At a probably small annual cost, Great Britain would be in a position to warn distant parts of her Empire in case of danger, and would at the same time be extending advantages to a commerce with which she is intimately connected."²⁾

Closely allied to the cable scheme was the question of an improved mail service between Great Britain and Australasia via Canada, which was proposed for the first time at this Conference. The discussion was introduced by the New Zealand delegate, who said he regarded it as one of the most important subjects before the Conference. The best way to knit together the outlying parts of the Empire was by means of a good mail service, and the ability to communicate and do business should be arranged before telegraphic communication. In a brief summary of the development of a steamship communication between Great Britain and Australia, Smith stated that mails began to be carried by steamers in 1856. This was before the

1. Parl. Pap. 1894. LVI. (C. 7553). p. 15.

2. Ibid. p. 17.

Suez Canal was built and the mails were conveyed overland from the Mediterranean to the Red Sea. In 1866, New Zealand and New South Wales made arrangements for a service from Great Britain via Panama. This operated only for two or three years but it had the effect of causing the P. & O. Company to reduce the time taken on the Mediterranean route. About 1870, the same two colonies arranged for a service via San Francisco which reduced by 3 or 4 days the time taken for letters between Sydney and London. That route was still in use. When in 1878, the Orient Company entered into competition with the P. & O. Company, an improved service resulted. These two companies maintained a weekly service by running their steamers alternately, so that letters from London, going overland to Naples or Brindisi, reached Melbourne in 33 days. At the present time, letters from Melbourne going overland to Fremantle at one end and from Naples to London at the other, take 32 days to reach London. Queensland, in 1880, began to subsidise the British India Company to run a four-weekly service from Queensland ports to Great Britain via Torres Straits. In addition, two companies maintained a service from New Zealand via Cape Horn and a monthly service had recently been commenced between Sydney and Vancouver, via Fiji. New Zealand was considering the Pacific route from an Imperial point of view rather than with regard to the special advantage of any particular colony. It would afford an all-British route for passengers and mails which would be less liable to interception in time of war than a route that passed through foreign countries, and this and the cable scheme were mutually complementary for developing trade between Canada and Australasia. At present this route was uncertain owing to the lack of co-ordination between the Canadian Pacific Railway and the Atlantic steamship companies. Smith asked the Conference to debate the question on broad, general, national lines and stressed the

necessity of impressing not only the colonies and Great Britain, but the world at large, that they were determined to do something of a practical nature to bring the colonies and the mother country together.¹⁾

Sir Adolphe Caron (Canada) said the essentials of a mail service were speed and assured regularity of arrival and departure. Large subsidies were paid for the various mail services. To the P. & O. and Orient Companies, the British Government paid £95,000 and the Australasian governments paid £75,000 annually. Queensland paid the British India Company £19,800; New South Wales paid £13,000 and New Zealand £7,000 for the service to San Francisco, while the new service between Australia and Vancouver received £25,000 from Canada, £10,000 from New South Wales and recently Fiji had been authorised to contribute £1,500. In addition, large subsidies were paid to the Atlantic companies, none of which, however, used Canadian ports. Considering the payments Great Britain made to other countries, he thought she might assist more liberally in the establishment of Imperial lines for developing and uniting the Empire.²⁾

Jersey was sympathetic and suggested that in such a matter they should look beyond mere pecuniary considerations, as a good line of steamers would entirely revolutionise the Pacific. The views of the Australasian colonies with regard to the route, payments and reconsideration of contracts would be valuable as a committee on the subject was then sitting in London and would delay their decisions until they had the views of the Conference.³⁾

Since Canada held the key position, Forrest asked for a definite proposition from the Canadian delegates but a general discussion was considered more advantageous for a start. Fraser thought a quick

1. Parl. Pap. 1894. LVI. (C. 7553). pp. 218-220.
 2. Ibid. pp. 221-223.
 3. Ibid. pp. 223-225.

and cheap service with plenty of space for frozen cargo was just as important as an improved mail service. The Canadian route would be of advantage only for mails and passengers as it would require two transshipments, one at Vancouver and another on the East coast. Thynne said Queensland subsidised the British India Company to ensure a cargo service as much as for a mail service, whereupon Jersey advised the delegates that they would have more hope of getting assistance from the British Government for a mail service than for a cargo service with cool storage. South Australia, of course, was served better by the existing lines than she would be by the new route and would, therefore, not offer any subsidy. Even New South Wales considered the existing mail services satisfactory but was willing to take a broad view of the subject. The three eastern colonies of Australia were all eager for the proposed mail steamers to call at their ports and New Zealand would offer a subsidy of £10,000 a year if Auckland were made a port of call. Foster said that competition from the new route would lead to a reduction of rates on the other routes so that all the Australasian colonies were of necessity interested. Moreover, the scheme would provide auxiliary cruisers in the Pacific for use in war. As for the Cape, de Villiers said it was really against their interests to encourage the proposal but they were prepared to regard it from an Imperial standpoint. It might diminish the trade of the Cape but the opening of the Suez Canal had not caused a loss and he hoped that the Pacific service would not affect their trade.

1)

Mr. Huddart, of the Huddart Parker Steamship Company, addressed the Conference on the subject. He proposed, in return for a subsidy of £150,000 a year from Canada and £75,000 from Great Britain, to

establish a fast weekly service on the Atlantic with 20 knot vessels making the journey from England to Halifax or Quebec in 5 days. On the Pacific, he would commence a three-weekly service between Vancouver and Sydney and include Auckland, Fiji and Honolulu as ports of call, or as an alternative, he would carry out a fortnightly service with five fast steamers in connection with the Atlantic scheme. Mails could be delivered in Sydney in 28 days or in Auckland in 26. The whole scheme would require a capital of £3,000,000 and he asked for a subsidy of £300,000 a year for ten years, divided as follows:- for the Atlantic service, £150,000, and for the Pacific service £25,000 from Canada, £75,000 from Great Britain and £50,000 from Australasia. Special arrangements with the Canadian Pacific Railway would facilitate connections at the Canadian ports. If the combined scheme were not acceptable, he was prepared to negotiate for the two parts separately.¹⁾

Opinion was very much divided in spite of repeated assertions that the question was being regarded from an Imperial point of view. Canada was ready to support almost any scheme, and having most to gain, was prepared to pay the biggest subsidy. New Zealand would support any scheme giving her direct communication with Canada. The suggestion of a connection with the Canadian-Australian service at Fiji was definitely refused. The Australian colonies displayed various degrees of indifference. Queensland was satisfied with her service which was now costing her only £19,800 a year, and not being able to combine a quick mail service with a quick general service, she preferred the latter. New South Wales was well enough served by existing services but, as the new one would bring more trade, she supported it. The Victorians wanted Melbourne made a port of call on the Canadian route but would not offer a subsidy big enough to pay

for the extra coal consumed in running the steamers from Sydney. The new mail service would not be of much use but they hoped to increase their trade. Wrixon said that the service would be of more use to the English firms than to the Australians, for it was generally agreed that more postal matter went to the extremities than came back. Tasmania, South Australia and Western Australia would not benefit and therefore no help could be expected from them. As Jebb puts it, "At best there was a division of Australia into two parts, roughly speaking an eastern and a western group of colonies. These two divisions were standing not shoulder to shoulder but back to back, and were pulling different ways. To take the extremities, Sydney and Perth were facing in opposite directions; whereas Halifax and Vancouver had a common interest owing to Canada being a middle section¹⁾ of the new route instead of a terminal country." The Canadians thought federation would be the cure for this division of interests but federation has meant that one voice now speaks instead of six in spite of the continued existence of the different interests. Moreover Australia had scarcely emerged from a very severe financial depression, so that governments had to be very careful about voting subsidies, no matter how much a proposal might appeal to them. Smith wanted each colony to contribute £1500 as a proof that they were all regarding the question from an Imperial standpoint but he met with no success. Sir Adolphe Caron therefore drafted the following rather vague resolution which was carried unanimously:-

1. That this Conference expresses its cordial approval of the successful efforts put forth by Canada and New South Wales for the establishment of a regular monthly steamship service between Vancouver and Sydney, and affirms the advisability of a reasonable co-operation of all the Colonies interested in securing the improvement and

permanence of the same.

2. That the Conference learns with interest of the steps now being taken by Canada to secure a first class mail and passenger service, with all the modern appliances for the storage and carrying of perishable goods, across the Atlantic to Great Britain, and the large subsidy which she has offered to procure its establishment.
3. That it regards such an uninterrupted through line of swift and superior communications between Australasia and Great Britain as is above contemplated as of paramount importance to the development of intercolonial trade and communication, and the unity and stability of the Empire as a whole.
4. That as the Imperial Post Office contributes towards the cost of the mail service between England and Australia, via Brindisi or Naples the sum of £95,000 per annum, while the sea postage amounts to only £3,000, and the mail service between Vancouver and Japan and China, £45,000, less £7,300 charged against the Admiralty, this Conference deems it but reasonable to respectfully ask that assistance be given by the Imperial Government to the fast Atlantic service, more particularly as the British Post Office, while paying the large subsidy of £103,231 a year to the line from Liverpool to New York, has, so far, rendered no assistance in the maintenance of the postal line between Great Britain and Canada.¹⁾

The delegates seemed satisfied that this resolution put the decision on a practical basis and constituted a definite plan which Lord Jersey might lay before the British Government. Foster was satisfied with the expression of sympathy and good will which the other colonies had given and believed that both the cable scheme and the mail service would soon be accomplished facts. "If the cable communication and the steamship communication shall be carried out

within the next 3 or 4 years, I venture to say that no one single action that has taken place will do more for the British Empire as regards its unity and the cohesion of those distant parts, than this very same line of action we have recommended. We cannot hasten too fast. With respect to the cable, so it is with this matter. We must be satisfied to go slowly.¹⁾

Jersey reported favourably on the resolution as expressing the desire of the Conference for a new line of communication between Great Britain and Australia via Canada. He regarded a quick, first-class line of steamers through the Pacific as the most essential condition for the development of Australian trade in that ocean and with Canada. If the weekly Atlantic and the fortnightly Pacific services were secured, Great Britain might divert £75,000 from the £104,000 paid to the New York line and a part of the £95,000 paid to the eastern line but the P. and O. and Orient Companies had served Australia well and deserved fullest consideration. "It would not be prudent to starve or endanger these excellent services."²⁾

The distance from England to Halifax was shorter than to New York so, instead of sending two weekly mails to New York, Jersey suggested sending one of them to Canada for the sake of the political and naval advantages that would result, not to mention saving £52,000 poundage on the New York line, as the new line would carry mail matter free to the extent of the subsidy. If Great Britain paid poundage, the difference between that and £75,000 might be made up by the Admiralty in view of the strategical advantages. This route would shorten the time taken to reach China and Japan and would open up a new highway³⁾ for soldiers, sailors and stores to HongKong and vessels in the Pacific.

Only two other matters were introduced. One was the question of

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1. Parl. Pap. 1894. LVI. (C. 7553). pp 251.
 2. Ibid. p. 9.
 3. Ibid. pp. 8-10.

copyright. The Canadian Government had tried to protect the interests of British authors and Canadian publishers by means of its customs arrangements but without success as Canada had been flooded with American editions and Canadian publishing firms had had to cease. As there was a committee investigating the problem in England at the time, the President withdrew it from the consideration of the Conference.¹⁾

Wrixon recalled that the question of bankruptcy had been dealt with at the 1887 Conference and several bills had been drafted dealing with the subject. The suggestions made there had never been put into effect and bankruptcies during the Australian depression made it desirable that all difficulties and ambiguities should be cleared away. He therefore moved "that this Conference desires to call the continued attention of their respective Governments to the proceedings of the Colonial Conference of 1887 in regard to the bankruptcy and winding-up of companies, with a view to completing the necessary legislation upon the questions therein raised." He said, "I feel that it is desirable that this Conference should preserve some continuity and that if matters were taken up and dealt with, they should not be allowed to lapse, and that if necessary, another conference may call attention to what had been suggested."²⁾

The motion was carried unanimously.

Wrixon also proposed "that the Chairman be requested to forward the resolutions and proceedings of this Conference to the Rt. Hon. the Secretary of State for the Colonies and to the Premiers of the Colonies represented; and to take such steps as may be necessary for calling continued attention thereto." The delegates were all agreed

1. Parl. Pap. 1894. LVI. (C. 7553). pp. 60-61.
 2. Ibid. pp. 256-7.

that the work of the Conference should not be allowed to lapse and that copies of the proceedings should be supplied to the various governments as soon as possible and reports given to the press before the public interest abated. Special correspondents of the newspapers had gone to Ottawa to report the Conference, but so far the proceedings had been confidential. It would further the realisation of the proposals of the Conference if the press were supplied with full reports as soon as possible and before unofficial or garbled accounts were published. The President undertook to carry out the wishes of the delegates in this respect.¹⁾

Some of the closing paragraphs of Lord Jersey's report show a reasoned sympathy with colonial aspirations, due no doubt to first-hand experience gained as a colonial governor. He seemed aware of the importance of the Colonial Conference in the general scheme of Imperial relations and was anxious that the British Government should not discourage the attempts which the colonies were making to ensure the unity of the Empire and render membership of it worth while. He said he had endeavoured to place before the Colonial Secretary the reasons and motives which inspired the resolutions. For the harmony of Imperial relations, it was indeed much more important for the British Government to consider and understand the reasons and motives than the resolutions themselves. "The resolutions relate to trade and the assistants to trade, but a spirit runs through them the significance of which should not be ignored. Whilst they embody the views of business men, anxious to advance commerce, and of statesmen desirous of developing their countries, quite as distinctly do they show that the self-governing principle is in harmony with the Imperial instinct."²⁾

1. Parl Pap. 1894. LVI. (C. 7553). pp. 257-258.

2. Ibid. p. 16.

He stressed the importance of unity amongst the Australian colonies and saw how the absence of it was hindering the advancement of projects that would benefit the Empire. He referred to Canada's offers as "a splendid indication of the spirit and far-seeing patriotism of her ministers." For the great purpose of advancing Imperial unity, she had proposed substantial pledges. The special conditions of the Australian colonies had not enabled them to act so decisively and yet on their action must depend the future of those proposals. "The Pacific cable and the steamship proposals aim at completing the Imperial girdle, with the consequent development of internal resources, by the inclusion of Australasia. Therefore the support given or withheld by her Governments must make or mar these schemes."¹⁾

Jersey's broadmindedness, his wide outlook and his readiness to judge a proposal by its merits rather than by some political or economic rule of thumb were in marked contrast to the narrow provincialism and the unwillingness to consider problems from all points of view which sometimes characterised Imperial relations. "The success of commerce in any part of the Empire must have beneficial effects on this country. I am impressed with the belief that the three proposals of the Ottawa Conference are sound, practical and full of great Imperial advantages. Commerce cannot be based on sentiment alone, but it is possible to clear away the snags and obstacles which may divert its stream into new regions. The Mother Country is asked to help in keeping clear the channels between her Colonies and herself, so that the flow of trade may be increased and the feeling of kinship uninterrupted. Never, perhaps, in our Empire's history has such an opportunity presented itself. The 'passionate sentiment' of Canada as Sir John Thompson so well described it, and the hopeful attachment of the growing Colonies of

Australasia and the Cape, turn eagerly at this time to the mother country for some sign of her regard for their development. Their leading statesmen appreciate the value of the connection with Great Britain, and the bulk of their population is loyal. It is within the power of Great Britain to settle the direction of their trade and the current of their sentiments for, it may be, generations. Such an opportunity may not soon recur, as the sands of time run down quickly. There is an impatience for action which would be tried by delay, and most sadly disappointed by indifference to the proposals which are now brought forward. A ready and generous consideration¹⁾ of them would be hailed with intense satisfaction."

Ripon's reply to the resolutions of the Conference was given in two circular letters to the Governor-General of Canada, the Governor of the Cape and the Governors of the Australasian colonies (except Western Australia), both dated June 28th, 1895.²⁾

Based on reports from all the Departments concerned, they form a clear statement of the fundamentals of the Government's fiscal policy towards the self-governing colonies. The first rough drafts of these letters were made in consultation with Robert Giffen, Assistant Secretary of the Board of Trade. Ripon revised them and sent them to Bryce and Kimberley who suggested further alterations. The Government resigned on June 21st, so they were not considered by the Cabinet. To prevent a possible reversal of policy by the new Government, Ripon signed the despatches on June 28th, and ordered them to be despatched at once. Meade, the Permanent Under-Secretary, thought the Prime Minister should see them but Ripon considered this unnecessary and they were forwarded the day before Chamberlain took office.³⁾

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1. Parl. Pap. 1894. LVI. (C. 7553). p. 17.
 2. Parl. Pap. 1895. LXX. (C. 7824).
 3. Wolf: Life of Lord Ripon, Vol. II, p. 221.

In the first, he dealt with the three resolutions regarding trade resolutions, the first two of which asked for the repeal of legislation and the cancellation of treaty obligations which obstructed the policy indicated in the third.

The Government and the whole population of Great Britain were in hearty sympathy with the sentiments expressed in the preamble to the third resolution and no proposal clearly tending to promote the stability and progress of the Empire would appeal to them in vain but Ripon doubted whether the fiscal policy proposed by the Conference would really promote this object. The resolution did not advocate a customs union of the whole Empire by which all the existing barriers to free commercial intercourse between the members would be removed and the total customs revenue equitably divided among the different communities. Such an arrangement would be free from objection and, if practicable, would cement the unity of the Empire and promote progress and stability, but circumstances in the colonies made such a union impossible at the time. The proposal to establish preferential duties in Great Britain in favour of colonial goods and, in the colonies, in favour of British goods, was an essentially different scheme. Commercial intercourse within the Empire was not to be freed from the customs barriers which impeded it but new duties, confined to foreign goods, were to be imposed and existing duties increased against foreign trade and diminished against British trade. This would involve a complete reversal of the system deliberately adopted by Great Britain 50 years before and maintained and extended ever since.

A differential duty was just as objectionable to the consumer as a general duty and, in addition, it dislocated trade by its tendency to divert it from its regular and natural channels. If the preference were given in the manner most favourable to trade, i.e. by partial

remission of existing duties in favour of British and colonial goods rather than by the imposition or increase of duties on foreign goods, it was obvious that as the total trade of the Empire with foreign countries far exceeded the trade between the members of the Empire, the volume of trade on which taxation would be placed exceeded that on which it would be partially relieved. This would involve increased taxation and a serious net loss of trade, the burden of which would fall on those parts of the Empire with the largest proportion of foreign trade and would far outweigh the gain in other parts.

Great Britain's imports from foreign countries consisted almost entirely of food and raw materials. Duties on food would diminish the real wages of workmen while duties on raw materials would mean a further encroachment on wages to enable the manufacturer to compete with foreign rivals. If the manufacturer failed to shift the duty on food and raw materials on to wages, he would be at a great disadvantage in world markets and colonial concessions would not put him on level terms with foreign competitors even there.

One quarter of the export trade of Great Britain consisted of foreign and colonial produce and the imposition of duties would mean an enormous outlay for bonding facilities. The result would be to place such obstacles in the way of this trade that it would be transferred and goods formerly received for re-export would be sent direct to their market or else through some other entrepôt. This would injure Great Britain's carrying trade and re-act on every industry in the United Kingdom. The gain, if any, to the colonies would be out of all proportion to the loss to the mother country. Moreover, the reduction of imports from foreign countries would lead to a reduction of exports part of which was manufactured from colonial raw material.

It would be difficult to make reciprocal arrangements among so

many colonies. In Great Britain, it would probably lead to an increase of revenue for a period but there would be loss of trade and employment, and increased cost of food and other necessities. In the colonies, remission of duty on the bulk of their imports would involve an entire re-adjustment of their fiscal system, requiring increased direct taxation. The practical difficulties and the immediate results had convinced the Government that even if the consequences were confined to the Empire and were not followed by retaliatory measures in foreign countries, the economic results would not benefit the Empire.

Ripon contradicted the statement of some of the delegates that colonial trade with Great Britain was increasing so fast that the arguments against preferential tariffs would soon not be valid. The proportion of colonial trade to foreign trade had changed very little for 40 years. In the period 1854-58, the colonial imports of Great Britain were 23.3% of her whole trade; colonial exports were 23.3% and the combined total of imports and exports was 25.8%. For the period 1889-93, the corresponding figures were 22.8%, 23.8% and 25.3% respectively. In spite of increasing population and investments in the colonies, there seemed to be no likelihood of alteration in those figures. Even if the proportions were reversed, the evils would be the same and would fall more heavily on the colonies than on the mother country.

1)
With regard to the second part of the resolution, Ripon said that at first sight it would appear that this concerned only colonies making preferential arrangements and that as the Government had allowed full fiscal liberty with the view of protecting local industries, there could be no objection to similar protection or

1. "That until the Mother Country can see her way to enter into customs arrangements with her Colonies" etc. see page 281.

preference to a sister colony. But the primary object of a differential duty was diversion rather than increase of trade. The foreign trade of most colonies was insignificant compared with their trade with the mother country and other parts of the Empire; therefore it would be difficult for one colony to give preference to another at the expense of the foreigner without diverting trade from the mother country or colonies which might not be parties to the arrangement. To injure the commerce of a neighbouring colony and cause bad feeling was quite contrary to the intentions of the Conference. The effect on the commerce of the rest of the Empire would have to be considered.

1)

The third part of the resolution, opened up a prospect of additional complications. If a colony outside South Africa extended to the Orange Free State preferential terms as granted to Cape Colony, the mother country might, unless the same terms were extended to all countries entitled to most-favoured nation treatment in the colony, be involved in serious controversy with those countries.

The reply dealt next with the two resolutions which urged the removal of obstacles arising from legislation or treaty, which impeded the carrying out of the preferential policy. The only legislative obstacle was the clause in the constitution Acts of the Australian Colonies prohibiting differential duties. Although the imposition of such duties was inconsistent with the policy of Great Britain, the Government would not interfere with the discretion of the colonies as long as the duties did not involve a breach of treaty obligations or were not detrimental to the unity of the Empire. The Queen's consent had already been given to an act²⁾ to repeal the provisions referred to, but so that the Government might be in a position to give effect to their responsibility for the international obligations

1. "That for the purposes of this Resolution the South African Customs Union" etc. see page 282.

2. Australian Colonies Duties Act. 1895. 58 & 59, Vict. c.3.

of the Empire and for the protection of its general interests, colonial bills for imposing differential duties were to be reserved for the signification of the Sovereign's pleasure. If such duties were included in a general tariff bill, a proviso must be added that they were not to come into force until the Royal Assent was given.

Finally, with regard to the resolution about the Belgian and German treaties, Ripon stated that Article XV of the former and Article VII of the latter did not prevent differential treatment by the United Kingdom in favour of British colonies. If Great Britain felt disposed to have a differential tariff in favour of her colonies, the treaties would not affect her action. They did not, according to the Law Officers of the Crown, prevent differential treatment by the British colonies in favour of each other but the interpretation of this by the other parties to the treaties might be different. They did not prevent differential treatment by the British colonies in favour of the United Kingdom but such treatment would have to be extended to Belgium and Germany and to any other country having most-favoured nation agreements with Great Britain.

As for the denunciation of the Articles, Belgium and Germany would not consent to this apart from the rest of the treaty and the Government was not prepared to abrogate the treaties, owing to the consequent disadvantages to the trade both of the United Kingdom and
1)
of the Colonies.

The second despatch set forth the views of the British Government concerning "commercial agreements between Her Majesty's Government and foreign Powers in regard to their trade with the Colonies" The area for such agreements was limited owing to the network of commercial

1. On the subject of colonial tariffs, see the following- Keith: Responsible Government in the Dominions. Vol. II. pp. 927-932, and The Sovereignty of the British Dominions, pp. 105-117; Knaplund: Gladstone and Britain's Imperial Policy, pp. 103-125; Porritt: Fiscal and Diplomatic Freedom of the British Oversea Domions pp. 93-160.

treaties by which nations were bound together but as there were still some powers with whom agreements could be made, it was advisable to make known the Government's views. Ripon quoted and approved of Wrixon's remarks at the Conference on June 30th.¹⁾ A foreign Power was to be approached only through Her Majesty's Representative, and any agreement was one between Her Majesty and the Sovereign of the foreign state. To give the colonies power to negotiate treaties for themselves without reference to the British Government would be to give them international status as separate and sovereign states, thus breaking up the Empire into a number of independent states. It was desirable that Her Majesty's Representative should have as a second plenipotentiary, or in a subordinate capacity, a delegate appointed by the colonial government concerned, and the results of the negotiations would have to be approved by the British Government and by the colonial legislature if they involved legislative action. Negotiations must give strict observance to existing international obligations and the preservation of the unity of the Empire. A colony might not offer a foreign power tariff concessions which were not at the same time extended to all other powers entitled to them by most-favoured nation clauses. No convention or treaty would be ratified unless the British Government were satisfied that it was consistent with treaty obligations. It was also essential that any tariff concessions proposed to be conceded by a colony to a foreign power should be extended to Great Britain and the rest of the Empire. Failure to observe this ended negotiations between Canada and the United States in 1892 and Newfoundland and the United States in 1890. The Government was satisfied that unity required the colonies to grant the Empire as favourable treatment as they granted foreign countries

1. Parl. Pap. 1894. LVI. (C. 7553). pp. 68-69.

and that they should not try to obtain an advantage from a foreign country at the expense of other parts of the Empire, but owing to the existing opinion among foreign powers and many of the colonies as to differential duties and in a matter which affected only a particular colony, the Government would not object to a proposal simply because it was inconsistent with the commercial and financial policy of Great Britain.

Thus the only concession the Home Government agreed to give was to permit the Australian colonies to widen their range for preferential tariffs and this was granted very unwillingly. The closing words, therefore, of Ripon's first despatch make one wonder whether they were intended as a sugar-coating to the free-trade pill he was administering or as an attempt at humour. "I have observed with pleasure the unanimity which prevailed as to the importance and desirability in principle, not only of preserving but of strengthening the bonds of sentiment, sympathy, and mutual benefit which now unite the Empire. This was one of the main objects for which the Conference was summoned, and Her Majesty's Government are convinced that the result has been a substantial and permanent contribution to the establishment and maintenance of that mutual understanding and sympathy without which that Imperial union which we prize so highly can scarcely hope to be permanent."¹⁾ If he really meant all this, he surely must have been optimistic with regard to his Government's contribution towards the realisation of the aims of the Conference.

Ripon, no doubt, was as eager as anyone to preserve the connection between Great Britain and the colonies but he did not think closer Imperial union would be best accomplished by means of

1. Parl. Pap. 1895. LXX. (C. 7824). p. 13.

political and economic schemes. In a confidential letter to Earl Spencer (December 1st, 1892), he wrote - "I am no fanatic for Imperial Federation (Roseberry probably considers me a dangerous heretic), but I believe that we ought to promote all reasonable propositions, accepted by the Colonies, for strengthening the union with them."¹⁾ To Roseberry he wrote on March 22nd, 1894, with regard to the proposals that were likely to be made at Ottawa as to communications between Great Britain and the colonies by cable, steamer and letter. The Treasury was opposed to assisting the first two and the Post Office, he thought, would look at the last in a purely financial aspect and will give little weight to political considerations."

"But these considerations" he adds, "are of great weight with me. It seems to me very desirable to encourage and assist the Colonies in a matter of this kind in which they take a strong interest. What is the use of talking about Imperial Federation if we are unwilling to help the Colonies in such cases as this? If you agree generally in this view, I will guide myself by it in any dealings with the Treasury; and if they are recalcitrant will bring the subject before the Cabinet."²⁾

Needless to say, Roseberry agreed entirely in this view. But Ripon would not have anything to do with Imperial preference as a means of promoting closer union. He thought it would be unjust to the commercial interests of Great Britain and perplexing to the colonies themselves, thus leading to grievances and controversies which would defeat the objects of the system.³⁾

But the Canadian Government was not to be stopped by the attitude of the British authorities. A month after the close of the

1. Wolf: Life of Lord Ripon, Vol. II, p. 212.

2. Ibid. p. 213.

3. Ibid. pp. 214 and 217. On the subject of commercial agreements with foreign countries, see Keith: Imperial Unity and the British Dominions, pp. 261-280; The Sovereignty of the British Dominions, pp. 279-291; Responsible Government in the Dominions. Vol. II, Ch.V.; Porritt: op.cit., pp. 161-281.

Conference, plans had been prepared and tenders were invited for the construction of the cable. Half-a-dozen or more companies were prepared to undertake the work at a cost at least £1,000,000 below the estimate given by the authorities of the British Post Office. In 1895, Chamberlain became Colonial Secretary and a different atmosphere prevailed at the Colonial Office. On June 2nd, 1896, he appointed an Imperial Pacific Cable Committee of six members, two each from Great Britain, Canada and the Australasian colonies, the Earl of Selborne being chairman. Their inquiry lasted over the period from November 12th to December 7th and their report was dated January 5th, 1897, though not published until April, 1899.¹⁾ The evidence of the engineers and scientists conflicted with that of the British officials and representatives of the cable companies. Since tenders had been made for the construction, the companies' witnesses criticised the usefulness of the cable and said that the amount of traffic diverted to it would not be sufficient to pay, that a single line would be unreliable and the long span from Vancouver to Fanning Island would make the transmission too slow.

To disprove the last objection, Fleming arranged to have the Canadian terminals of two parallel cables from Ireland joined, thus forming a longer span than that from Vancouver to Fanning Island, and a message was successfully transmitted over this. He also suggested duplicating by a line via Honolulu to tap additional business and to avoid the risk of interruption through seismic disturbances. The Committee agreed that the cable was practicable, that a survey was indispensable, that, if constructed, it should be state-owned and that the route should be all-British, omitting Honolulu.

1. Parl. Pap. 1899. LIX. (C.9247) and (C.9283).

The matter, of course, came up for discussion at the 1897 Conference but Chamberlain was not enthusiastic about it. The British Government were not dissatisfied with the existing service and, although they thought the proposal was valuable, they did not feel that it was urgent, and therefore, "we should not ourselves, or by ourselves, have been disposed to offer subsidies to the Pacific Cable, and we are only induced to do it by our desire to show that in any matter in which our Colonies are themselves deeply interested¹⁾ they may count upon the support and assistance of the mother country." The Report went on to state that the majority of the Premiers desired that the subject should be deferred until they had considered the report of the 1896 Committee. "It was, however, pointed out ... that the matter was not one in which the United Kingdom was taking the initiative, although Her Majesty's Government were ready to consider any proposal for working with and assisting the Colonies if they attached great importance to the project; and that they would now await definite proposals from the Colonies interested before proceeding²⁾ further in the matter."

At the same time, the Companies returned to the attack and offered, in return for certain concessions, to extend the West African cable from the Cape to Australia via Mauritius, but at a conference in Sydney in 1898, New South Wales, Victoria, Queensland and New Zealand agreed each to pay one-ninth of the cost of the Pacific cable if Great Britain and Canada would share the balance. When in April 1899, Chamberlain at last made public the report of the 1896 Committee, he stated that the cable was of greater importance to Canada and Australasia than to Great Britain, and the only inducement it offered

1. Parl. Pap. 1879. LIX. (C. 8596). p. 12.

2. Ibid. p. 19.

to Great Britain to contribute towards its cost was that it would promote Imperial unity. If the construction and working were undertaken by Canada and Australasia, the United Kingdom was prepared to make good five-eighteenths of any loss in the working up to £20,000 a year, provided the Treasury had the right to supervise the construction and approve of the charges. This was a great disappointment to the colonies who were expecting the British Government to pay five-eighteenths of the cost of the construction. Fleming, in a letter to Laurier, the Prime Minister of Canada, said that as Canada was the oldest of the British family of kindred nationalities, she must take the initiative and seize the opportunity to prove her determination to promote Imperial unity.¹⁾ In May, 1899, he addressed an open letter to the British people. "Within the last few days it has been stated that the Home Government has not responded to the proposals of Canada, Australia and New Zealand respecting the establishment of the Pacific Cable, in the way that the Governments and the people of these countries had reason to expect, in consequence of which a feeling of disappointment and surprise is on all sides expressed." He then referred to the difficulties of negotiating between the governments concerned owing to distance and the means of communication and went on to deal with the latest proposal of the British Government which I have just stated. "As this proposal at the eleventh hour, taken by itself, involves an entire change in the well-known plan upon which Australia, Canada and New Zealand have been proceeding in their negotiations for more than two years, and moreover, is in itself of no value in securing the establishment of so important a national work, it is impossible to believe that it is the full or final judgment of Her Majesty's Government." He gave

1. Burpee: Sandford Fleming, Empire Builder. p. 164.

- five reasons for this opinion. The decision would be regarded as
1. Recession on the part of the mother country from a common understanding with Canada, Australia and New Zealand.
 2. An attempt to retard the expansion and cripple the commerce of the Empire in the interests of a few rich monopolists.
 3. An unjustifiable and discourteous act to Canada, Australia and New Zealand.
 4. A fatal blow to the scheme for establishing a system of State-owned British cables encircling the globe.
 5. A grave retrograde step in the Imperial movement which aimed at drawing closer the bonds between the mother country and her daughter¹⁾ lands.

The letter had its effect. The Canadian Minister of Public Works was sent to England as a special representative to explain his Government's views but the day before he landed, the British Government yielded. On July 4th, 1899, a conference between representatives of the governments interested was held at the House of Commons to discuss the question of joint state-ownership. Great Britain agreed to pay five-eighths of the cost and a board of control was set up to supervise the work. This board which was to consist of three members from Great Britain (including the chairman), two from Canada and three²⁾ from Australasia, was duly constituted on November 25th.

Neither Ripon nor Chamberlain had regarded the Pacific cable as important in itself and in view of the lack of unity amongst the Australian colonies each one of which was jealous of its own interests and unwilling to make any sacrifice for the general good, it is not surprising that they did not advise their Governments to commit Great Britain to a financial agreement with the colonies. It was in order

1. Burpee: op.cit., pp. 164-166.
 2. Parl. Pap. 1900. LV. (Cd. 46).

to gratify colonial wishes rather than from a belief in the desirability of the scheme that Chamberlain finally gave away. Canada's persistent advocacy of the scheme was, as her representatives freely admitted, due not solely to her enthusiasm for Imperial unity but also to the fact that the construction of the Pacific cable would mean a gain to her in any event.

But the Companies had not yet given up the struggle. The offer of the extension of the cable from the Cape to Australia via Mauritius, when first made, involved subsidies amounting to £57,000 a year but now that the Pacific scheme had progressed so far, they offered the extension without any subsidy and an immediate reduction in rates to 4/- a word with the prospect of a further reduction to 2/6, provided the revenue from Australia did not go below £350,000 a year and they were permitted to have their own wires and offices in Australia. This rate would be a serious blow to the Pacific scheme. As the federation of the Australian colonies was close at hand, the Companies approached them individually and in April, 1900, Western Australia, South Australia and Tasmania, who were not parties to the Pacific agreement, were captured. Queensland and New Zealand remained firm, but rivalry between Victoria and New South Wales aided the Companies. Queensland, New South Wales and Victoria signed the Pacific agreement on December, 31st, 1900, and the Commonwealth came into existence the next day and was to take control of the state postal services as soon as practicable. Three weeks later the New South Wales Government signed the agreement with the Companies and the tangle was left for the Commonwealth to unravel.

However the Pacific scheme went ahead. A survey of the route, made in 1901, revealed not the depth of 12,000 fathoms predicted by the British Post Office officials in 1887, but nothing more than 3,200 fathoms, with an average of 2,700 fathoms. The construction

was completed a year later and on November 1st, 1902, Fleming sent the first messages right round the globe, one east, the other west. Fleming, with his wide and courageous outlook, did not regard this as the completion of the task but merely the beginning, the first section of a complete set of all-British cables linking up all parts of the Empire.¹⁾

3. 1897.

The third Colonial Conference met in 1897 and, like the first, was incidental to the Queen's jubilee celebrations. On January 25th, 1897, Chamberlain telegraphed to the Governors of all the self-governing colonies an invitation for the Premiers and their wives to visit England in June as the guests of the British Government. This he followed up three days later with a letter in which he suggested that the opportunity should be taken to discuss "many subjects of the greatest interest to the Empire, such as Commercial Union, Colonial Defence, Representation of the Colonies, Legislation with regard to Emigrants from Asia and elsewhere, and other similar subjects."²⁾

The invitation was accepted and the following colonies were represented by their Premiers:- Canada, Newfoundland, New South Wales, Victoria, Queensland, Tasmania, South Australia, Western Australia, New Zealand, Cape Colony and Natal. Thus for the first time, all the delegates were ministers of responsible governments. In addition, as part of the jubilee celebrations, they had all been sworn as members of the Privy Council. Referring to the delegates, Garvin writes: "The eleven were a good team. Three were conspicuous

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1. For the Pacific cable, see Johnson: Annals and Aims of the Pacific Cable; Ewart: Kingdom of Canada etc.; Burpee: Sanford Fleming, Empire Builder; Jebb: The Imperial Conference. Vol.I. and Parliamentary Papers, 1887. LVI; 1894. LVI; 1895. LXX; 1899. LIX; 1900. LV.
 2. Parl. Pap. 1897. LIX. (C. 8485). p. 5.

Reid of New South Wales, a great free trader waging a losing battle¹⁾ in his part of the world, surpassed the rest in sheer ability.

Laurier was as easily first in distinction and accomplishment. Massive and sturdy Seddon of New Zealand, though primitive in some of his economic notions, was the most devoted Imperialist of them all."²⁾

The meetings, of which there were five, began at the Colonial Office on June 24th, ending on July 8th, and were presided over by the Colonial Secretary. It was decided that the proceedings should be confidential and informal and that only the general results should be published. The report is, therefore, very brief. The full shorthand notes of the discussions ran to 150 pages, "mostly devoted to keen general conversation and quick fence. There are many topics and disagreements. The Colonial Secretary listens more than he speaks."³⁾ He intervenes briefly only to recall miscellaneous discussion to order³⁾

In a speech at Birmingham on January 30th, 1897, Chamberlain said this Conference was to be "an interchange of ideas about matters of common and material interest, about closer commercial union, about the representation of the colonies, about common defence, about legislation, about questions of equal importance which cannot but be productive of the most fruitful results."⁴⁾ Chamberlain's great concern was to gather the parts of the Empire more closely together by common interests for common benefits. In a speech to the Canada Club on March 25th, he clearly set forth his aims. "We may endeavour to establish common interests and common obligations ... What is the greatest of our common obligations? It is Imperial defence. What is the greatest of our common interests? It is Imperial trade. And

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1. This is rather a surprising estimate of Reid's ability. He was a clever politician and an astute tactician in his own sphere of state politics but most people will agree that he never rose to the heights of statesmanship reached by the Canadian Premier.
 2. Life of Joseph Chamberlain. Vol. III. p. 187.
 3. Ibid. p. 189.
 4. Ibid. p. 185.

these two are very closely connected. It is very difficult to see how you can pretend to deal with its great question of Imperial defence without having first dealt with the question of Imperial trade ... If the people of this country and the people of the Colonies ... intend to approach this question in a practical spirit, they must approach it on its commercial side.¹⁾

He was a convinced free-trader but if sufficient advantage were offered, he would consider a deviation from the strict doctrine. But no such advantage had yet been held out by the Colonies, not even in the shape of a substantial preference for British goods. Petty schemes would only hamper trade in foreign markets and increase the cost of food and production. The time had come for a grander conception. He was impressed by what the Zollverein had done for Germany and considered that a world-wide British Zollverein with free trade between all its parts and duties on foreign products seemed the one policy great enough to justify the mother country in abrogating the unconditional principle of free imports.²⁾ Thus protection within the Empire must disappear. If the British Zollverein were realised, then a Council of Empire might be constituted.³⁾

Chamberlain spoke to the same effect at a Congress of the Chambers of Commerce of the Empire held in London (June 4th). Nevertheless, he did not succeed in converting the colonies to his views. In order to give a definite direction to the discussion, Chamberlain opened the proceedings by setting forth the subjects which he thought might be most usefully discussed so as to secure an interchange of views, and where they were ripe for a statement of opinion, a definite resolution in regard to them. The Government had carefully avoided suggesting anything in the nature of a formal agenda

1. Garvin: op.cit. Vol. III. pp. 179-180.

2. Ibid. p. 180.

3. Ibid. p. 182.

because they did not wish to detract from the personal character of the Premiers' visit nor force on them discussions on which they were unwilling to enter, but they were prepared to consider in the most friendly and favourable way any representations regarding the present or future relations of the parts of the Empire and to learn the views of the delegates rather than to press the Government's views.

The greatest, most important and most difficult subject was the question of the future relations, political and commercial, between the self-governing Colonies and the United Kingdom. Chamberlain's own views on this subject were well-known. For a number of years, he had been advocating some kind of federation and the strengthening, in every possible way, of the ties that bound the parts of the Empire together.¹⁾ It was no surprise therefore, to hear him urge the Conference to strengthen the bond of sentiment. The idea of federation was in the air and the problem was how best to give practical application to the principle. If it were ever accomplished, it would be by slow and gradual steps. Much depended on the feeling in the colonies, and the grouping of colonies in federations such as he hoped to see in Australia and South Africa would be an important step towards it. There was a need for better machinery of consultation between the self-governing colonies and the mother country and he suggested a great council of the Empire to which the colonies would send representative plenipotentiaries, not mere delegates unable to speak in their name, without further reference to their respective Governments, but persons who by their position in the colonies, by their representative character, and by their close touch with colonial feeling, would be able, upon all subjects submitted to them, to give really effective and valuable advice. Such

1. Cf. Boyd. (ed): Mr. Chamberlain's Speeches and Garvin: Life of Joseph Chamberlain.

a council would assume immense importance and might develop into something greater. "It might slowly grow to that Federal Council to which we must always look forward as our ultimate ideal."¹⁾ This council would discuss in the first instance all minor subjects of common interest and its opinion would weigh most materially before any decisions were come to either by Great Britain or by the legislatures of the colonies.

The time might already have come, if not, it would come, when the colonies desired to substitute for the slight relationship which then existed a true partnership, and then they would want their share in the management of the Empire. With the privilege of management would come obligation and responsibility and some form of contribution would have to be made towards the expense for objects in common. A small advance had been made when judges from the courts of Canada, Australia and South Africa were made Privy Councillors who would take their seats as members of the Judicial Committee. There were certain objections to this as the judges were still in practice and might have to hear appeals in regard to cases on which they had already decided. They would have to divide their time between England and their own colonies and might be absent from the former just when they would be most useful. This could be overcome by appointing them solely and entirely to represent the colonies, to reside in England and not be actively engaged in judicial work elsewhere. This would strengthen the Privy Council and colonial confidence in it. Here Chamberlain referred to the clause in the Australian Federation Bill which aimed at limiting appeals to the Privy Council to constitutional questions only and expressed the hope that it would be reconsidered so as to allow appeals on any question.

1. Parl. Pap. 1897. LIX (C. 8596). p. 6.

The question of closer relations covered all the rest for if federation, or anything approaching it, were established, all the questions which he was about to refer to the Conference, would be settled by the representative body of the Federation. Of these other questions, the most important was defence. The very existence of the colonies depended on a strong British navy and he hoped all the colonies would see their way clear to follow the example of the Australasian colonies and make some contribution to its upkeep. In regard to military defence, there was need for greater organization, closer co-ordination and fuller development. To assist this, he hoped it would be possible for colonial officers to have commissions in the British army and that exchanges of regiments might take place between the colonies and Great Britain so that colonial soldiers might get the benefits of training with the British army and British regiments might assist in raising the efficiency of the colonial military forces and at the same time gain wider experience.

As for commercial relations, the question was how to make them closer and more intimate. Chamberlain regarded sentiment as the strongest force but he would like to see it reinforced by motives of material and personal interest, but the fiscal arrangements of the colonies differed so much among themselves and all differed so much from those of the mother country, that it would be very difficult to make arrangements which would unite the Empire commercially in the same sense as the Zollverein united Germany. The Australian Premiers' Conference had expressed a desire for closer commercial arrangements with the Empire and had suggested^a/commission of inquiry. If it were the wish of the other colonies to join in such an inquiry, the British Government were prepared to make arrangements and accept suggestions.

Chamberlain referred next to the treaties with Belgium and Germany

which the colonies wished to be abrogated. He pointed out the importance of the question to Great Britain whose trade with these two countries was greater than that with all the colonies combined. Moreover, if the treaties were denounced, Belgium and Germany might adopt retaliatory measures. The question was brought to a practical issue by the recent Canadian tariff offering preferential terms to the mother country which Belgium and Germany claimed under the treaties. If after considering the effects on themselves as well as on Great Britain, the colonies still wanted the treaties ended, the Government would give the request "the favourable regard which the memorial deserves." But there were most favoured nation clauses in other treaties to which most of the colonies were parties. Under the Canadian resolution, if any foreign nation offered Canada beneficial terms, Canada would be bound to give that country the same preference as she gave Great Britain. It would be impossible to denounce those treaties because the whole trade of the Empire was involved, but the difficulty could be avoided by offering preference to the mother country by name and not to foreign countries.

I have already mentioned Chamberlain's attitude towards the Pacific cable. Chamberlain also referred to legislation, proposed or passed by some of the colonies, with regard to immigration of aliens, particularly Asiatics. The Government sympathised with the determination of those colonies to prevent an influx of people, alien in civilization, religion and customs, which would interfere with the legitimate rights of the existing labour population but he asked the colonies to bear in mind the traditions of the Empire which made no distinction in favour of, or against, race or colour. To exclude, by reason of their colour or race, all Her Majesty's Indian subjects, or even all Asiatics, would be so offensive to those peoples that it would be painful for Her Majesty to sanction it. He, therefore,

suggested that they should deal with the character of the immigration. "It is not because a man is of a different colour from ourselves that he is necessarily an undesirable immigrant, but it is because he is dirty, or he is immoral, or he is a pauper, or he has some other objection which can be defined in an Act of Parliament, and by which the exclusion can be managed with regard to all those whom you really desire to exclude."¹⁾ This advice has been followed and the education test avoids the difficulties Chamberlain mentioned.

A few other topics were mentioned for discussion. Chamberlain was in favour of improved postal communication and the institution of Imperial penny postage as a means of binding the Empire and he thought the colonies should be prepared to sacrifice some revenue to attain this object. He also mentioned the desirability of uniformity in commercial law throughout the Empire in order to assist trade and finally he advocated uniformity in the placing of load lines on ships. If the colonial regulations were not as strict as those in Great Britain, unfair competition would result and shipowners would transfer to the colonial register to take advantage of easier conditions which made their trade more profitable but less safe. He suggested that the British Board of Trade should add colonial representatives to the expert authority which determined the load line.

The Conference passed two resolutions with regard to commercial relations -

1. That the Premiers of the self-governing Colonies unanimously and earnestly recommend the denunciation, at the earliest convenient time, of any treaties which now hamper the commercial relations between Great Britain and her Colonies.
2. That in the hope of improving the trade relations between the mother country and the Colonies, the Premiers present undertake to

confer with their colleagues with the view to seeing whether such a result can be properly secured by a preference given by the Colonies to the products of the United Kingdom.

The proposal for a Zollverein with free trade within the British Empire was thus rejected. In Chamberlain's words, "The Colonies represented that, that is, at all events at the present time, a counsel of perfection which they cannot contemplate as possible."¹⁾

The Government notified Belgium and Germany of their wish to terminate the commercial treaties with them and Chamberlain was able to report that from and after July 30th, 1898, there would be nothing in any of Her Majesty's treaty obligations to preclude any action which any of the colonies might see fit to take in pursuance of the second resolution. But if any colony went further and granted preference to any foreign country, the most-favoured nation clauses in treaties in which the colonies were included would necessitate the same concession to those countries.

Three resolutions regarding political relations were passed:-

1. The Prime Ministers here assembled are of opinion that the present political relations between the United Kingdom and the self-governing Colonies are generally satisfactory under the existing condition of things.
2. They are also of opinion that it is desirable, whenever and wherever practicable, to group together under a federal union those colonies which are geographically united.
3. Meanwhile, the Premiers are of opinion that it would be desirable to hold periodical conferences of representatives of the Colonies and Great Britain for the discussion of matters of common interest.

Mr. Seddon (N.Z.) and Sir Edward Braddon (Tasmania) opposed the first resolution because they thought it was time an effort was made

1. Confidential report quoted in Garvin: Life of J. Chamberlain, Vol. III, p. 191.

to render more formal the political ties between the mother country and the colonies. The majority, while disagreeing with this, felt that owing to the rapid growth of population in the colonies, the existing relations could not continue indefinitely and means would have to be devised for giving the colonies a voice in the control and direction of questions of Imperial interest in which they were concerned. It was recognised that a share in the direction of Imperial policy would involve contributions in aid of Imperial expenditure but the colonies were not prepared to make such contributions. Laurier said he was quite satisfied with the existing condition of things but did not imagine it would last forever. He thought it would be a good thing if the colonies were represented on the floor of Parliament by members who were allowed to speak but not to vote. They would thus be able to bring matters which concerned them to the attention of the public. "You see the idea is a sentimental one. It has been suggested that there is a great deal in sentiment. This will have to be dealt with at no distant date if the colonies are to continue to be colonies." And again, "The day is not far distant when you will have in Canada a population of 10,000,000. With all the loyalty which exists in Canada at the present day, it will not be satisfactory to the Colony under such circumstances that the present relations should continue in their present condition. Those relations must get looser or they must get stronger; this is inevitable."¹⁾ His suggestion for representation received no general support.

With regard to the third resolution, the general feeling was in favour of triennial meetings. This resolution was particularly gratifying to Chamberlain with his hopes for Imperial Federation. For "the first time in our history and in our Imperial history, we are

1. Confidential report quoted by Garvin: op.cit. Vol. III, p. 190.

suggesting and agreeing to the desirability of a periodical conference of the representatives of all colonies. That is the beginning of it¹⁾ - the beginning of a Federal Conference."

The First Lord of the Admiralty (Mr. Goschen) and the Senior Naval Lord attended the last meeting of the Conference to explain naval matters, in particular the agreement with the Australasian colonies. Mr. Goschen said that the Admiralty was content with that agreement because it acknowledged the principle of contribution. The amount paid was almost negligible from the Admiralty's point of view but it produced certain ties between the Admiralty and the colonies which they valued and would be sorry to loosen. Strategically, the Admiralty wanted a free hand to move the ships wherever they thought they would best serve Australasian interests. Local land defences were not the affair of the navy but of the army and, therefore, the navy was not to be split up to defend ports but was to be free to go wherever necessary. He assured the delegates that the Australasian colonies would never be left exposed and undefended, but he wanted freedom to manage the ships so as best to protect those colonies. The Admiralty would not break its agreement but in war it wished to adopt an aggressive policy, seek out the enemy and not hug the shore.

While the policy of the Admiralty remained the same as it had been in 1887, the tone of the First Lord's speech seemed far friendlier than the tone of those made by the British Naval officials at the 1887 Conference. The Conference accordingly passed the following resolution:-

That the statement of the First Lord of the Admiralty with reference to the Australian squadron is most satisfactory, and the Premiers of Australasia favour the continuance of the Australian

1. Confidential report quoted in Garvin: op.cit. Vol. III, p. 192.

squadron under the terms of the existing agreement.

Kingston (South Australia) did not vote as he had put forward a scheme for the establishment of a branch of Royal Naval Reserve in Australia.

On the question of colonial contributions to the defence of the Empire, Reid said that the great test of the relations between the colonies and the mother country would be the next war in which Great Britain was engaged. "She is not ever likely to be engaged in an unrighteous war. If engaged in a defensive war, you would find that sentiment would determine everything. Our money would come; our men would come ... that feeling of patriotism, we may call it - it would flame out just as practically in the colonies, in the hour of danger, as in England; but it is only in those moments that you can make the people one in the sense of sacrifice."¹⁾ Reid's views were soon proved true by the South African War and much more so in 1914-1918 when the contributions of the colonies to the defence of the Empire must have far exceeded the most optimistic Imperialist vision of 1897.

The Prime Minister of the Cape (Sir Gordon Sprigg) announced that his colony was prepared to make an unconditional contribution of the cost of a first class battleship. This was later commuted to £30,000 a year and Natal added £12,000.

The Secretary of the Colonial Defence Committee (Captain Nathan) also spoke and indicated what each colony might do to complete its preparedness for any emergency. The Premiers undertook to consider the question of occasional interchange of units between the colonies and the United Kingdom, while the War Office undertook to assist in securing uniformity of arms and ammunition. Queensland, Newfoundland

1. Confidential Report quoted in Garvin: op.cit. Vol. III. p. 191.

and Natal were the only colonies that desired to adhere to the Anglo-Japanese treaty of 1894 and Newfoundland alone wished to be included in an arrangement with France in regard to trade in Tunis. No definite decision was made about legislation to exclude coloured immigrants as the Premiers wished to discuss the matter with their colleagues and parliaments. This was a question in which the Australian delegates were deeply interested. Feeling on the subject was strong and the Australian Labour parties had decided views about it, so it was not likely that the Premiers would commit themselves on the subject and perhaps run the risk of defeat on their return.

Cape Colony and Natal favoured an Imperial penny post but the remainder thought it impracticable under existing conditions. Other matters discussed were the future administration of British New Guinea, the Solomon Islands and the New Hebrides; load-lines; the departure of the Australian mails and representation at the Paris Exhibition. With regard to the investment of trust funds, it was resolved - That those assembled are of the opinion that the time has arrived when all restriction which prevents investments of trust funds in Colonial stock should be removed.

Chamberlain was so optimistic and enthusiastic when he summoned the Conference that the results must have been rather disappointing for him. Closer union even for defence was not effected, but though the Conference failed to strengthen Imperial defence or create a Customs Union, its results were important commercially as the diplomatic way was cleared by the denunciation of the Belgian and German treaties for the application of the new Canadian method of preference and for its adoption by other colonies. When the Duke of Devonshire asked Chamberlain how the Conference was progressing the latter wrote: "I can best answer your question by describing the

position in a few words. All the Premiers are much impressed by their reception and the prevalence of the Imperial spirit. All of them are personally favourable to closer union. Mr. Reid, the cleverest of them all, is genuinely patriotic and ready to risk something for the idea. The others are Premiers first and patriots second¹⁾ - and they have a natural fear that if they commit themselves too far, they may be reproached when they get home with having sacrificed colonial interests to the flesh-pots of Egypt.

Our policy is to continue to impress our wishes and hopes for union and to leave the leaven to work. Union will not come in a hurry, and must follow the Federation of Australia and the South African colonies. But the great thing is - to use a railway expression - to get the points right. If we do this, we shall go on parallel lines for the future. If we make any mistake, we shall get wider and wider apart till the separation is complete.

I think therefore that a speech of the kind made by you at Liverpool is still the right thing. Impress on them the fact that it is a great privilege to be part of the British Empire - and that we desire them to remain so - not in our own interests but in the interests of the race."²⁾

No representative gathering of the Governments of the Empire had taken place before 1887 and the first three Colonial Conferences held in England were incidental to Queen Victoria's two jubilees and King Edward's coronation. These more or less casual meetings grew up into an institution and have taken an important place in the evolution of Imperial relations, for the early conferences mark the transition between a period of isolation and practical independence and, therefore, irresponsibility, and the period of maturity and co-operation.³⁾

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1. This weakness was not peculiar to colonial premiers. Even Colonial Secretaries put allegiance to a political party first and patriotism second.
 2. Garvin: op.cit. Vol. III, p. 193.
 3. Cambridge History of the British Empire, Vol. VII, Pt. I. p. 530.

The self-governing colonies were developing ideals, political and commercial, that differed from those of the mother country.

Misunderstandings and bickerings left behind them in the colonies the feeling that Great Britain wished to coerce them to her ways or to drive them out of the Empire altogether, while Great Britain felt that the colonies were unreasonable, ungrateful and never satisfied.

Public men in Great Britain who took a genuine interest in the colonies were yet so far out of touch with colonial thought that they planned the closer union of the Empire along lines that, far from appealing to the colonies, even caused repugnance. It was high time that representatives of the colonies and of Great Britain met to discuss the problems that concerned them so closely, to hear and try to understand the opinions of each other and agree, if possible, on a system of relationships that would work smoothly. It was time that ignorance and misconceptions were cleared away and feelings of condescension and patronage replaced by a sense of justice.

The colonies were definitely opposed to any sort of parliamentary federation. They preferred a system of co-operation based on alliance with the mother country. As early as 1865, Sir John Macdonald had voiced this in Canada. In his speech on the Canadian Federation Bill, he referred several times to alliance with Great Britain. "I am proud to believe that our desire for a permanent alliance will be reciprocated in England ... The colonies are now in a transition state. Gradually a different colonial system is being developed - and it will become, year by year, less a case of dependence on our part, and of over-ruling protection on the part of the mother country, and more a case of healthy and cordial alliance. Instead of looking upon us as a merely dependent colony, England will have in us a friendly nation - a subordinate but still a powerful people - to stand by her in North America in peace or in war. The people of Australia

will be such another subordinate nation ... She (England) will be able to look to subordinate nations in alliance with her and owing allegiance to the same Sovereign.¹⁾

The problem of securing such co-operation and alliance was answered by the summoning of the Colonial Conference. Imperial and international relations were becoming increasingly complicated and it was necessary that these should be dealt with by a single authority on behalf of the whole Empire or else by co-operation between the governments. The single authority might be the British Government or a specially created Imperial Federal Parliament, but neither of these appealed to the colonies, so that co-operation between the governments was the solution. W.E. Forster, first President of the Imperial Federation League, favoured this method. "We had better aim at concert among the Governments, rather than at an Imperial Parliament; ... distance does prevent a member from being fully in touch with his constituents."²⁾ As to working in concert, this could be done by means of intermediaries in the manner in which foreign countries dealt with each other through their diplomatic representatives or the governments of Great Britain and the colonies might meet face to face in direct conference. It was the latter method that was adopted in the form of the Colonial Conference. "Very probably, when the Colonial Office decided that the method of Conferences was one to be encouraged, it was moved by its knowledge of Australian opinion of other schemes. It would not accept either separation or neutrality, nor did it like the idea of a council of advice, and was well aware what Australians thought about Imperial Federation. At the same time it was conscious from its dealings with the colonies, that it would be

1. Keith: British Colonial Policy, Vol. I. pp. 324-325.

2. Reid: Life of W.E. Forster. Vol. II. p. 526.

wise to associate them more nearly with Britain in Imperial matters.
Here then was the method to be adopted." ¹⁾

The Conference of 1887 was "a casual, amorphous thing," ²⁾ with no regular constitution and no precise plans for the future. In this respect, it was typical of the growth of the British constitution. ³⁾ "Almost unawares, the expedient of 1887 grew into an institution." It began as a temporary expedient in a form dictated by the convenience of the moment and the requirements of the day. It was the beginning of a unique experiment in international government and any attempt to define in precise terms the future of this experiment would have been foolish.

Though on the surface it had the air of a casual meeting made possible by the presence of colonial representatives at the jubilee, it was an expression of deeply felt needs and had a closer relation to the thought of the time than has generally been realised. It marked a change in the policy and attitude to the colonies and was a natural and orderly outgrowth of what had been slowly maturing for some years until improved means of communication had facilitated conference between the leading men of the Empire. It marks the beginning of a new conception of the Empire quite different from the pessimistic views of mid-Victorian days - a growing sense of solidarity and the place of the Crown as the unifying force of the Empire. "The importance of the first Conference lies rather in the definition it gives of the prevailing ideas about the relations which should subsist between the mother country and the colonies, than in its practical achievements. On all sides there was a general wish to promote the 'unity' or 'solidarity' or 'strength' of the Empire. But there was

1. Hall H.L. Australia and England. p. 261.

2. Hall H.D. The British Commonwealth of Nations, p. 97.

3. Ibid. p. 98.

no general belief that the existing views about the organization of the Empire required alteration. Those views were quite clear. It was England's business to run the Empire as a whole, to conduct its foreign relations, to defend it from attack, to govern the dependencies. Colonial legislatures were responsible for their own territories, but had no responsibility for defending them from invasion, or for assisting in the defence of the Empire as a whole." 1)

The personnel of the Conference was not settled at once simply because no one knew yet what was to be the exact function of the Conference. Councils had been suggested before 1887 composed of Agents-General or resident colonial ministers to be advisory to the Colonial Secretary rather than as conferences between governments. Was the Conference to be an organ of consultation between governments and therefore to consist mainly of ministers, or was it to be an assemblage of prominent colonials from whom the British Government might ascertain the views of the colonies on the questions discussed? The Colonial Secretary's preliminary despatch in 1887 mentioned the desirability of including the Agents-General and also any leading public men who could go to England for the Conference. Representatives of Crown Colonies attended the opening ceremony and a few of the later sessions which concerned them. Some of the representatives were government officials and ex-ministers. It was, therefore, a conference not merely of governments but of leaders of colonial thought and in this respect was a colonial conference in the full sense of the term. It neither possessed nor claimed any power to come to any final or binding decision on any single matter. It was assembled for consultation and discussion alone; neither the colonial delegates nor the Imperial ministers were empowered to bind

1. The Round Table. Aug. 1911. "The Conference and the Empire" p.375.

their respective countries to any final decisions upon the questions submitted to them.

The variety of topics discussed showed the homogeneity of the interests of the people of the colonies and of the mother country. The most important question for Great Britain was defence; for the colonies, trade. The discussions and proposals on these questions showed that the colonies concerned were ending, or had already ended, their period of immaturity and were ready to undertake greater responsibilities. It is true that Canada alone had established a national government while all the other colonial governments were of a more provincial character and there were few signs of any attempt to assert equality of status with the United Kingdom. The colonies were mostly content to accept a lower status but the British Government took no advantage of its superior position to dictate in any way to the colonial governments. "From the earliest days, the relative attitudes of the mother country and the colonies in approaching the discussion of Imperial affairs became defined. The Imperial Government, conscious of its immense responsibilities, regarded provision for defence as the most important 'common interest' of the self-governing Empire. The colonial governments, necessarily ignorant of international questions, and the problems of the dependent Empire, and absorbed in the development of their own lands, thought that commercial reciprocity was the safest and best method of strengthening and uniting the Empire. The reason for this difference in view is obvious. Combination for defence, as proposed in those days, involved the settlement of a basis of contribution for the different states and the acceptance by the colonies of the policy of the mother country, both as regards foreign affairs and the expenditure of the common funds. Their representatives in London might have influenced, but they could not have controlled the action of what would have been at once the British and the Imperial Government. It

is not surprising, therefore, that, in the interests both of their pockets and their autonomy, the colonial representatives should have preferred measures, such as Preference, which were designed to strengthen the Empire, but which left the autonomy of the colonies unimpaired.¹⁾

The Conference probably meant more to the colonies than it did to Great Britain and though perhaps the immediate material results were disappointing yet a foundation had been laid on which the fabric was reared in later years. Difficulties that might have been fomented, rather than removed, by tedious and protracted correspondence could now be adjourned for adjustment by personal discussion. The invitation to such a conference impressed the delegates but some of the Australian newspapers were the reverse of enthusiastic about it, though they changed their attitude later. "The Age" regarded it as an attempt of English politicians to put some of the burdens of the Empire on the shoulders of the colonies in order to placate their constituents.²⁾

Most papers were suspicious at first, partly through the fear that it was a subtle method of bringing about unity or Imperial Federation. "The South Australian Register" thought that little good would come of the Conference because its decisions were not binding. Prompter attention to Australia's wishes about New Guinea would have done more than "effusive expressions of goodwill at the Conference." Later, it thought it was "a new and significant departure," though it deprecated the endless flow of talk and was sure that the Imperial Government could not understand the view-point of the colonies, instancing Salisbury's surprise when told that he

1. The Round Table. Aug. 1911. "The Conference & the Empire." p. 380.
 2. Jan. 21st. and April 25th. 1887.

spoke more like the premier of a foreign country than as an equal among equals.¹⁾ "The Sydney Morning Herald" said the Conference²⁾ marked a new era in the history of the colonies but also said "We know all the results of this Jubilee Conference, perhaps better than the representatives themselves. It is hardly necessary for them to dilute the little word 'nil' in a hundred pages of big type."³⁾ Fortunately the political leaders saw the possibilities of the innovation.

The Conference did much to educate the Government and the press of Great Britain and public opinion generally about colonial ideas and resources, with the result that greater interest was shown in the Empire. It widened the political horizon; ministers got to know each other and understand each other's problems. They could talk frankly in a way which would be impossible if the means of communication had to be impersonal. It revealed the similarities and differences of interests within the Empire; it was an object lesson to foreign countries. It dated a distinct period in Imperial History for it would be impossible in the future for any English Government to do anything that would affect the interests of the colonies without consulting them on the subject. "The deep distrust, unhappily too often justified, of British colonial policy gave place to a feeling that at long last British Governments were awakening to the true value of the colonies and to the possibilities of an Empire united⁴⁾ by other ties than those of common kindred and common allegiance." "A closer continuity hendeforward marked the foreign and colonial policy of British Governments and Deakin's emphatic language ... on the identity of Colonial and Imperial interests was not lost on the

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1. Jan. 6th & 29th. April 6th, May 2nd & 10th, June 6th & 10th, 1887.
 2. Dec. 11th, 1886.
 3. June 22nd, 1887.
 4. Fiddes: The Dominions and Colonial Offices. p. 229.

home authorities."¹⁾

The opinions of some who took part in the Conference are of interest. Service, speaking of this gathering of leading men from all parts, said, "We immediately began to take each other's measure. Although the Imperial authorities received us with the utmost warmth, and kindness, we felt that we were to some extent on our trial. We had a kind of feeling that we were regarded somewhat askance - a feeling that the Imperial authorities were not quite sure that we had enough of the old blood in us to rise to the Imperial level. When we separated we had very different feelings towards each other."²⁾

Sir Graham Berry was of the opinion that there had been "an indirect, an indistinct, an impalpable and yet not less valuable increase of the Federation spirit since the holding of the Conference."³⁾ In Australia the advantages of federating the colonies were certainly emphasised by the Conference but the Imperial Federation movement received no impetus there whereas in Great Britain its advocates regarded the Conference as a step towards its realisation. The most striking statement came from Deakin. "Of all the signs of the times within recent years among English-speaking people, no sign has been more important than that Conference with closed doors. Consider its significance in regard to ourselves alone - the change of relations it marks in a very short space of time. A century ago Great Britain, in shame and sorrow, sent the offscourings of her population to this great continent. Within a century she receives back representatives of free and prosperous communities to give her assurance of renewed loyalty and affection. And what sign of the times has appeared which has expressed and symbolised as that meeting did the greatness,

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1. Cambridge History of the British Empire, Vol.VII, Pt.I, p. 362.
 2. Dalton: "The Colonial Conference of 1887". Proceedings of R.C.I. 1887-88. Vol. XIX. p. 36.
 3. Ibid. p. 38.

the extent, and the magnitude of the British Empire? Here we see sitting side by side men gathered from every quarter of the globe. We see a conference of one Empire which represents such elements of diversity, strength and enterprise as cannot be gathered together in any other city by any other nation in the world. What a story of enterprise, what a romance of the energy of the race, what a tale of the past, and what a promise for the future is written in that Conference! And if it said anything, it said that, great as the United Kingdom is among the nations of the earth - and truly and really great she is - it is the Colonies which make the Kingdom an Empire.¹⁾"

The Australian delegates, at any rate, seemed impressed by the occasion which also doubtless, did something to foster national pride in what was looked on in Australia as an Australian constitutional development rather than a development in Imperial relations. "Colonial Conferences make for colonial independence and not for federation at all",²⁾ says a Canadian writer.

The Conference "discussed many topics with great cordiality, but, as might have been foreseen, without arriving at any very definite or striking conclusions. There was agreement, however, upon one point - that the Conference principle contained the seeds of usefulness and should not be allowed to die. The delegates had at last seen England and known Englishmen. They had realised that much-abused Downing Street had graver difficulties to contend against than they had surmised, and that red tape was not its only principle of action. They had come to understand also that the bond of feeling which united the English race was as strong in the old country as in the

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1. Quoted by Brassey: Recent Impressions in Australia. Proceedings of R.C.I. 1887-88. Vol. XIX. p. 130.
 2. Ewart: Kingdom of Canada. p. 159.

new ones, and that the loyalty to monarch and to the institution of monarchy was a reality."¹⁾

The chief weakness of the Conference was the lack of any machinery for ensuring continuity. No arrangements were made for renewing discussions on matters of common interest, but the "Colonial representatives had taken away with them a clearer insight into the future than was possessed by Her Majesty's Government. To the latter, the Conference had been an isolated event - a by-product, as it were, of certain happenings at home. Ten years were to elapse before they summoned another Conference; and twenty years before they arrived at the conception of periodical Conferences as part of the machinery of Empire."²⁾

However, issues raised in 1887 demanded further personal consultation between the various governments; hence the summoning of the 1894 Conference. The fact that the delegates were invited by the Canadian and not by the British Government shows that the spirit of co-operation had taken strong hold of the self-governing colonies. From its composition, it was more a conference between governments than the previous Conference had been. It did not discuss defence or political relations but confined itself to the issues of peace. The delegates regarded their mission as a commercial one.³⁾

"That this meeting should have been held at all was itself significant of a new spirit. Its conclusions were still more so. There was no advance certainly towards that imperial federation which Lord Salisbury seven years earlier had deprecated as a premature aspiration ... There was, however, a definite and practical decision leading in the direction of a Zollverein or customs union which Lord Salisbury had put aside at the first conference as an entirely futile

1. The Round Table. May 1911. "1887 & 1897" p. 282.

2. Fiddes: The Dominions & Colonial Offices. pp. 231-232.

3. Wrixon: The Ottawa Conference. Proceedings R.C.I. 1894-95. Vol. XXVI.

subject for discussion, having regard to the existing condition of things." ¹⁾

The third Conference met at a time that was full of anxiety and uncertainty for Great Britain. The European powers were busy grouping themselves in close alliances and at the same time striving for colonies and markets overseas. From the system of alliances, Great Britain held aloof but she took her part in colonial expansion. There had been a further partition of Africa; chartered companies were extending their activities in Rhodesia, East Africa and Nigeria; preparations were being made for the re-conquest of the Soudan; the French were expanding in Northern Africa; the Germans were consolidating their power in South West and East Africa. Russia was pushing towards Manchuria and the China Sea; the defeat of China by Japan had apprised the world of the rise of a new power; the joint veto by Russia, Germany and France on the lease of Port Arthur to Japan was but the prelude to the attempted spoliation of China by those same powers in 1898. The Jameson Raid had called forth the German Emperor's telegram to Kruger and the sands were running down in South Africa. At this period of isolation, the unity of the Empire was the first necessity and Chamberlain took advantage of the Jubilee celebrations to attempt to draw the colonies closer to the mother country in some sort of union or federation which would afford her effective assistance. Hence the colonial premiers were invited to the celebrations and, incidentally, to another conference, as the guests of the British Government, a gesture on Chamberlain's part which he hoped would surely meet with the desired response.

This Conference was restricted to self-governing colonies, only

1. The Round Table. May. 1911. "1887 & 1897". p. 286.

premiers attending, and in that respect was more a cabinet of cabinets, though still presided over, not by the Prime Minister of Great Britain, but by the Colonial Secretary, "sitting like a wise old uncle at the head of a table of representatives of the younger generation,"¹⁾ an arrangement which did not much longer satisfy the younger generation. It is the first that deserves the name of Imperial Conference, being, in fact, the first conference between the governments of the Empire. The premiers, by virtue of their command of a parliamentary majority, were in a better position to commit their countries to action of which they approved. It was more responsible than the preceding conferences because by reaching unanimity, it would more or less commit the Empire to any policy it endorsed. Hence the resolutions were characterised by far more caution.

Defence was again the important subject and the discussions on Imperial economic relations, begun at Ottawa, were continued. This Conference witnessed the first tentative proposal by the British Government that a step should be taken in the direction of Imperial Federation, but it met with a blunt refusal from the delegates. With the example of Germany before him, Chamberlain believed that commercial co-operation would bring about commercial union from which in turn might spring political federation. But his scheme would have involved the abandonment of the method of free co-operation in favour of an Imperial super-state and the disappearance of the Colonial Conference; hence, the cautious agreement that the existing political relations were generally satisfactory. In answer to the question "What was 'the existing condition of things' under which the 'present political relations' were regarded as generally satisfactory?" H.D. Hall writes, "There was in the first place the marked

1. Zimmern: The Third British Empire. p. 28.

difference in national maturity between the various Colonies represented in the Conference. Canada was already a young nation; Australia was on the verge of nationhood; New Zealand, especially under the leadership of Mr. Seddon, was a mere overseas Cornwall. But the policy and the plans of the English Government made provision only for New Zealand: they made no provision for a nation such as Canada. The 'existing political relations' between the United Kingdom and Canada were not really satisfactory because they restricted her national growth. She had to choose between absorption or separation, or acquiescence in her existing dependence. There was obvious truth in the plea, urged so strongly by Chamberlain, that England was paying far more than her proportionate share towards the defence of the Empire. Yet the English Government still set its face sternly against the only method of assistance which, under the existing conditions, was compatible with the nationhood of either Canada or Australia - the method, that is, of local navies. When, therefore, the Admiralty passed round the hat amongst the Premiers for contributions, Canada made no response. Not encouraged to assist as an ally, though she showed some small signs of desiring to do so, she refused to pay as a tributary. The Australian Colonies, already pledged to pay, continued their 'naval tribute' - but without enthusiasm.¹⁾"

Canada's refusal to contribute to naval defence was not due, as Hall here suggests, to the British Government's discouragement of the establishment of a local Canadian navy. In 1897, and in 1902 as well, Canada's attitude was due to the fact that she needed huge sums for the construction of new railways and other public undertakings in order to open up new territory for settlement. She felt that the

1. British Commonwealth of Nations. p. 107.

growth of the Dominion meant the growth and strengthening of the Empire as a whole and that spending money on this developmental work was as important as contributing to naval defence. Just as Great Britain was compelled by her position to spend vast sums in order to keep open her communications by sea, so Canada was compelled by the newness of the country and the lack of natural unity to spend large sums on internal development and the maintenance and extension of her land communications. Laurier was, therefore, not prepared to commit his country to Chamberlain's schemes, knowing, as he did, that he would meet with much opposition in Canada, particularly from the French
1)
Canadians.

The Conference ended without making any definite arrangements for future meetings but a resolution affirming the desirability of "periodical conferences" was a step forward. With the later conferences, I am not concerned here but Stanhope's prediction of 1887 has undoubtedly been fulfilled. "However modest the commencement may be, results may grow out of it affecting, in a degree which it is at present impossible to appreciate, the interests of the
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Empire and the civilized world."

The following paragraphs indicate briefly the position to which the Conference has developed today. "The essential function of the Conference is to consider all issues of common interest, to lay down the main lines of the common foreign policy to be adopted, and to devise means of fruitful co-operation in the economic and financial sphere as well as in development by migration of the resources of the Commonwealth. Through the Conference also the Dominions and India

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1. Willison: Sir Wilfrid Laurier, Pt. II, p. 299. Skelton: Life and Letters of Sir W. Laurier. Vol. II, pp. 293-300.
 2. Parl. Pap. 1887. LVI. (C. 5091). p. VIII.

are brought into contact with those parts of the Empire which are not possessed of responsible government. The Imperial Conference naturally serves as a mode of removing disagreements which arise between governments in the Empire in so far as this can be achieved¹⁾ by friendly discussion."

"The exact character of its resolutions has always been that of honourable undertakings on the part of those governments which adopt them, while other governments remain unaffected. But it remains for each government to determine freely how soon and in what way it can give effect to any resolution to which it has agreed and a new government is not bound by any resolution adopted by a preceding government, if it is precluded by its political views from giving effect to it."²⁾

As if in answer to Stanhope's words, a writer, 45 years later, says the Conference "has been the occasion of the great majority of those political and constitutional achievements which have gone to the building up of the British Commonwealth into the unique structure which it is today. In the constitutional field it has made gradual provision for the development of a Colonial Empire into a group of self-governing nations owing common allegiance to the Crown."³⁾

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- 1..Keith: "The Constitutional Development of the British Empire in regard to the Dominions and India from 1887 to 1933," being an introduction to Palmer: Consultation and co-operation in the British Commonwealth." p. LVIII.
 2. Ibid. pp. LVII-LVIII.
 3. Palmer: op.cit. p. 11.

Note.

On August 13th., 1869, Messrs Youl, Sewell and Blaine, Honorary Secretaries of the Royal Colonial Society, wrote to Granville, the Secretary of State for the Colonies, enclosing a copy of a circular which they had sent to the Colonial Secretaries of New South Wales, Tasmania, South Australia, Victoria, New Zealand and Queensland, and which they intended to ^{send} to the Governments of the Dominion of Canada and the Provinces, the Cape of Good Hope, Natal and Mauritius. This circular stated that at a meeting of influential colonists, held at the Colonial Society's rooms on August 4th., it was resolved that a committee should be appointed to communicate with the colonial governments in reference to the relations between the Mother Country and the colonies. This meeting had been held as a result of Granville's reply to New Zealand's request for a loan of £1,500,000 for defence purposes during the Maori Wars. The Home Government was carrying out its policy of withdrawing Imperial troops from the colonies, a policy which gave rise to the opinion that the mother country was trying to hasten the independence of the colonies. Granville, who succeeded Buckingham in December, 1868, and who was "by birth and manners an aristocratic Whig and by conviction a Manchester Radical", ¹⁾ did much to foster this idea so that, as Egerton says, "the relations between England and her Colonies have seldom been more strained than during the years 1869-1870". ²⁾ Replying to New Zealand, Granville said that the settlement of New Zealand had not been instigated by the Imperial Government, the wars were due to the greed of the settlers and their desire for the lands of the natives; and that instead of having any

1. Egerton: A Short History of British Colonial Policy, p. 393.

2. Ibid.

claim on the Imperial Government, they really owed it a great debt. ¹⁾

Granville's attitude somewhat alarmed the Royal Colonial Society. Their circular stated that except for partial protection in case of war with civilized powers, the mother country recognised no responsibility for the welfare or safety of the colonies, nor any obligation to help them, even in great danger and pressing need. Such a policy seemed to point to the severance of their connection, perhaps hurriedly and in an unfriendly spirit, which would be disastrous alike to the mother country and the colonies. The colonies wished to avert such an evil but as they had no means of acting or influencing the counsels of the Imperial Government, it was thought that steps should be taken to bring about a conference between the governments of the colonies, particularly those under responsible government. The interests of the colonies in relation to the mother country were not adequately secured under the existing system of administration of colonial affairs and the constitution of the Colonial Office was ill-adapted for carrying on friendly intercourse with colonial governments or representing their wants and wishes, while the British Parliament was absorbed in other affairs. It was proposed that properly authorised representatives should meet in London in February, 1870, and confer with the view of urging on the Imperial Government such changes in the administration of colonial affairs as might appear desirable.

Granville also sent a circular despatch to the governors of the

²⁾ colonies concerned. While denying the accuracy of the description of the Government's policy as given in the circular, he stated the Government's willingness to ascertain and consider the wishes and interests of the colonies. There was no desire to prevent collective action but he thought that such action undertaken in a spirit of

1. Keith: Responsible Government in the British Dominions. Vol.II.p.1157.
2. Sept. 8th., 1869.

antagonism would be useless. Moreover, he thought it would be injudicious to include representatives of all the colonies with representative government as the problems which arose in individual colonies often had little connection with each other. He considered that there was nothing in the mode of transacting business between the British and the Colonial Governments which, under their generally cordial relations, obstructed negotiations or called for practical improvement in their means of communication. He thought it best for colonial ministers to continue to communicate with the Home Government through their Governors rather than to depend upon a body of gentlemen in London acting in pursuance of their own views or of mere written instructions, under influences not always identical with those which were paramount in the colonies, and without the guarantee which their recommendations might derive from passing through the Governor's hands. His objections to a standing representation of the Colonial Empire in London did not relate to the appointment of several or collective agencies on the system then in force which he believed completely answered its purpose.

None of the colonies showed any enthusiasm for the proposed conference. Some returned a purely formal acknowledgment; others stated their agreement with Granville's views. Tasmania, for example, did not believe the policy of the Home Government was leading to separation or that colonial interests were not adequately secured under the existing system. This colony was quite satisfied and desired no change. Even New Zealand whose treatment had prompted the well-meaning action of the Royal Colonial Society expressed agreement with Granville and refused to take part in any conference. Queensland condemned the interference of self-constituted colonial societies and other pretended representatives and hoped the Home Government would take no notice of statements regarding colonial affairs unless

made by an officially accredited representative. The existing mode of communication with the Home Government was satisfactory.

Queensland had no desire to withdraw from the British Empire but

"whenever a serious intention shall be shown by the British Parliament to break the Imperial tie, the Colonists will claim their right to be heard against a deprivation of their position and rights as Englishmen without their consent."¹⁾

This reply also stated "that the colonies will doubtless some day solicit from the British Government a solution of the claims of Great Britain, in respect of what are termed Imperial interests, what she claims of them in time of war, and to what extent she will continue to assert her right of interference with the trade and commerce, and with the commercial or domestic legislation of the Colonies, and in the separation of the portions of their Territories - also whether Great Britain will recognise any Imperial duties towards the Colonies in Peace or War, and define what they are, and by what means she will perform them, and more particularly whether she will make them such as entitle her to a complete, or limited, allegiance and support, in the event of war with other countries, and thus afford us a guide to our Colonial duties towards her".²⁾

The Governor of Victoria enclosed a copy of Higinbotham's resolutions of which he gave notice in the Legislative Assembly on October 27th., and which were passed after much debate. Higinbotham called the attention of the House to the correspondence regarding the proposed conference and to recent debates in both houses of the Imperial Parliament on the relations between the Imperial Government and the governments of the self-governing colonies. He moved five resolutions to the effect:

1. That the care of the political rights and interests of a free

1. Parl. Pap. 1870. XLIX. (c. 51). p. 5.

2. Ibid. p. 5.

people could be safely entrusted to a body appointed by and responsible to that people and that the Legislative Assembly declined to sanction or recognise the proceedings, so far as they related to Victoria, of the proposed conference held at the instance of a "self-constituted¹⁾ and irresponsible body of absentee Colonists".

2. That the people of Victoria desired to remain an integral portion of the British Empire and acknowledged their obligation to provide for the defence of Victoria, bear the sole cost and retain exclusive control of the means furnished for this purpose.

3. That the Legislative Assembly protested against the interference, by legislation of the Imperial Parliament, with the internal affairs of Victoria except at the instance or with the express consent of the people of Victoria.

4. That official communications of advice, suggestions or instructions by the Secretary of State for the Colonies to Her Majesty's Representative in Victoria on any subject connected with the administration of the local Government, except the giving or withholding of the Royal assent to, or the reservation of, Bills passed by the Victorian Parliament was a practice not sanctioned by law, derogatory to the independence of the Queen's Representative and a violation both of the principles of Responsible Government and the constitutional rights of the people of the colony

5. That the Legislative Assembly would support Her Majesty's Ministers for Victoria in any measures to secure recognition of the exclusive right of Her Majesty and the Legislative Council and the Legislative Assembly to make laws in and for Victoria in all cases and putting an early and final stop to the unlawful interference of the Imperial²⁾ Government in the domestic affairs of the Colony.

1. Parl. Pap. 1870. XLIX. (C. 24). p. 11.

2. Ibid. p. 11. and Morris: Memoir of George Higinbotham, pp. 160-161.

Higinbotham attacked ex-colonists who, having grown rich, deserted their own country for residence in a "foreign country", but he kept most of his wrath for the Colonial Office with its policy of interference in the internal affairs of the colony. It was then that he made his well-known statement that the colonies were governed "by a person named Rogers. He is the chief clerk in the Colonial Office". He thought that if the colonial ministers were able to communicate direct with the ministers of the British Government, instead of through the governors and the Colonial Office, a permanent and friendly union between the colonies and the mother country would be brought about.

The Victorian Parliament did not take much notice of the activities of the ex-colonists but had much to say about the Colonial Office. Some members sympathised with the resolutions but thought they would do no good. Gavan Duffy thought the Colonial Office, in its desire to abandon the colonies, interfered too little. Graham Berry, probably thinking of the withdrawal of Imperial troops which was arousing a great deal of bitterness, compared the resolutions to the actions "our forefathers took in Great Britain when they won their liberties; that is, that they would grant supplies to the Crown only on redress of grievances." James McCulloch agreed that despatches should be answered by the ministers and not by the governors who were, according to a letter from Higinbotham to Parkes "only the secret agents of an illegal and absolutely irresponsible authority, the English Secretary of State for the Colonies".¹⁾

"The Age" supported Higinbotham in his defence of the rights of self-government against the uncalled-for attacks of the Secretary of State. It objected to being lectured by the Colonial Office and to

1. April, 27th., 1872. Quoted in Hall., H.L.: England and Australia, p. 188.

the practice of sending despatches to the governor instead of to the minister concerned.¹⁾ "The Argus", on the other hand, was alarmed at²⁾ at what it considered proposals for separation.

The Governor, Manners-Sutton, urged the Colonial Office not to give the colonists any pretext for thinking that Great Britain was indifferent to them, nor to make any concession which would dishearten the upholders of the existing status, or send the Moderates over to the Separatist camp and not conciliate Higinbotham. The object of the extremists, he said, was a dynastic union with the British Crown³⁾ with complete independence of the British Government.

The Colonial Office drafted a carefully worded despatch thanking the Victorian Parliament for its desire to provide for its own defence and to remain in the Empire, but pointing out that part of the resolutions were inconsistent with this latter desire. The Imperial Parliament must remain supreme and the governor still exercise a dual function otherwise Victoria would be placed in the position of a foreign country with which even diplomatic relations were suspended. Finally, the Imperial Government was aware of the benefits to be had from harmonious co-operation and could be relied on not to interfere unnecessarily.⁴⁾ As the resolutions were never officially brought before the notice of the Colonial Office, this despatch was not sent.

Higinbotham's feelings induced unnecessarily strong language on this occasion and his use of personalities did not clarify the issue, but we may regard the occurrence as an indication of dissatisfaction with relations between the colonies and the mother country which a conference, undertaken in the spirit of the later conferences, would have done much to remove. The manner in which the proposal for a

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1. Nov. 4th., 1869. Sept. 9th., 1871. Aug. 5th., 1872.
 2. Nov. 5th., 12th., 19th., 1869.
 3. Hall, H.L.: England and Australia, p. 191.
 4. Ibid. pp. 192-193.

conference was received forms a contrast with the feelings exhibited twenty years later and indicates the change that had taken place during that period in the attitude of the colonies and the mother country towards each other.

Higinbotham was convinced that the Colonial Office wished to interfere illegally and improperly in the affairs of the colonies. He was not desirous of separation although he used the word "foreign" when speaking of Great Britain but the proposal for a conference gave him the opportunity to express his views on Downing Street interference and to try to make clear the exact powers of the Government and Parliament of Victoria under responsible government. He wished the Colonial Office to refrain from concerning itself with the internal affairs of the colony and to deal with those questions that affected the Empire as a whole. In order that satisfactory relations might exist between the self-governing colonies and Great Britain, one condition was that these colonies should provide for their own defence, otherwise they could not claim that degree of independence which they desired. In 1863, Newcastle had made a similar statement, adding that protection by the mother country in time of war or likelihood of war was not incompatible with full self-government.¹⁾

Higinbotham considered that the British Government should be responsible for the protection of English shipping in Australian waters but prudence and self-respect demanded that any naval or military force created and maintained by Victoria should be completely controlled by the Victorian Government and not be liable to be withdrawn from the Victorian territory or waters.

He maintained that Victoria had never had self-government in fact, although according to law she was independent. Her right of legislation was subject to the anomalous condition, not accepted by

1. Morris: Op. cit., p. 167.

the Victorians, but imposed on them by the British Government and Parliament, which enabled an English minister - "a foreign minister, I will say for this purpose" - to advise the Crown either to accept or to reject any legislative measure. While possessing the right of an independent government to dispose of her own lands, mines and other property, Victoria did not have any of the relative rights of a nation to send an embassy that would claim official recognition, even to a neighbouring colony, or to make peace or to proclaim war. In all the internal affairs of Victoria, the head of the Executive enjoyed the same freedom and independence with regard to Victoria that the Sovereign did in Great Britain. This was the keystone of the system of self-government, so that if the Governor depended on any one except his responsible advisers for advice, the power of self-government was curtailed. To back his statement that responsible government could not exist in a colony if the Governor had to take advice from England, he quoted a despatch of Lord John Russell to Poulett Thompson (Canada) in 1839.¹⁾ He also quoted from a debate in the House of Lords on the question of the Victorian Parliament's grant to ex-Governor Darling in order to show to what extent members favoured the policy of allowing the Colonial Office to tender advice to the Governor, a policy which the Lord Chancellor declared would make the pretence of free colonial institutions simply a delusion and a mockery.²⁾

He accused the Colonial Office of steadily, persistently and designedly disregarding the existence of responsible government by preparing legislation with regard to the colonies and getting it passed by the Imperial Parliament, and by means of the instructions issued to the colonial governors. He protested strongly against the influence exercised over the Secretary for the Colonies by the permanent staff

1. Morris: op. cit., pp. 171-172.

2. Ibid. p. 176.

of the Colonial Office, particularly by "a person named Rogers", who¹⁾ was the real governor of the colonies. He believed the Colonial Office would rather give up the colonies than forego the control they exercised over them and he advocated the policy of direct communication between the Victorian ministers and the British ministers without intervention of the Colonial Office. If this did not succeed, the suspension of all communications for a period of a year or more might.

Higinbotham never gave up his desire to see responsible government in Victoria carried out in full and to what he considered its logical limits, and in particular he attacked the British Government's policy in connection with the issue of instructions to colonial governors.²⁾

It is clear that the colonies were afraid that if they agreed to a conference they might be led into surrendering some of their powers of self-government. Higinbotham said the invitation was virtually a request to transfer the seat of government of Victoria from that colony to England. "Melbourne is the seat of government of this country, and of the legislation of this country - not London; and Her Majesty's ministers for Victoria and the legislative bodies elected for Victoria are the only powers known to me who have legal authority to deliberate, to consult, and to decide as to what shall be the political position which this country shall hold, either in relation to the mother country, or in regard to its own domestic and internal relations."³⁾

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1. Morris: op. cit., p. 183.
 2. Ibid. pp. 198-222. Keith: Responsible Government in the British Dominions (1912). Vol. I. pp. 163-172.
 3. Morris: op. cit., p. 162.

V. THE FEDERATION MOVEMENT.

From about 1840 onwards, the relations between the Australian colonies began to come into importance. With the expansion of these communities and the development of their trade, inter-colonial commerce began to increase and each colony drew up a tariff with a view to its own interests and with little thought for the interests of its neighbours; there was no clearly defined commercial policy but the easiest and handiest sources of revenue were tapped regardless of economic principles. But though imposed primarily for the purposes of revenue, the tariffs began to include protective measures and we find instances of colonial goods being taxed while the products of Great Britain entered free or at a preferential rate. For some time after their separation in 1825, New South Wales continued to treat Van Diemen's Land commercially as if they were still united, and the two colonies admitted each other's goods free while ordinary duties were payable on similar goods from other colonies, Great Britain or elsewhere. To give legislative sanction to this arrangement, which¹⁾ has been called the "first federal gesture", and also in the hope of stimulating inter-colonial commerce, Gipps in 1842 introduced a Bill into the New South Wales Legislative Council to permit the produce and manufactures of Van Diemen's Land and New Zealand to be imported free²⁾ of duty. Sydney merchants wanted this to apply to all Australian colonies and petitioned the Governor to this effect, but Gipps refused on the grounds that the concession would have to be extended to other parts of the Empire, thus causing considerable loss and inconvenience.

1. C.H.B.E. Vol. VII. Pt. 1. p.425.

2. This did not apply to foreign goods imported into V.D.L. and N.Z. and then re-exported to N.S.W.

The Bill was agreed to but was disallowed by the Home Government and Stanley, the Secretary for the Colonies, sent a circular despatch¹⁾ to the governors of the colonies on this subject (June 28th., 1843). He said that the imposition of discriminating duties required an intimate knowledge of the commercial treaties and political relations between Great Britain and other countries, and Colonial Legislatures did not possess this knowledge. Legislation on this subject by forty different Legislatures would lead to the utmost variance on a subject on which unanimity and consistency were indispensable, might embarrass the Government in negotiations and cause indemnities and compensations to be paid. Therefore, the Government objected to the imposition of differential duties by colonial Legislatures and Parliament, having already prescribed the rules by which such duties were to be discriminated, with reference to the place of origin or export, reserved to itself the power to alter those rules, the single exception being when the Government might suggest the enactment of any such discriminating duties. The Governors were enjoined to exercise all the legitimate influence of their office to prevent the introduction of Bills for imposing differential duties, but, if unsuccessful, and any such law should be passed, they were to withhold their assent. In a further despatch to Gipps (August 31st., 1843) Stanley said that differential duties would lead to retaliatory measures and a system of protective tariffs and preferential duties at variance with the fiscal policy of the Empire.

It was some years before these duties disappeared, since this circular referred only to the enactment of new laws. Van Diemen's Land continued for sometime to admit New South Wales goods free while

1. Parl. Pap. 1846. Vol. XXVIII. p. 107. Bell & Morrell: British Colonial policy, pp. 333-334. Porritt: Fiscal & Diplomatic Freedom of the British Dominions, pp. 428-429.

placing a duty of 15% on those of South Australia and New Zealand, and in 1842, she imposed a duty on coal and tobacco from New South Wales whose Legislative Council petitioned for the disallowance of this Act. In 1845, New South Wales put duties on goods from Van Diemen's Land and the next year, the latter colony abolished preference to New South Wales altogether. The early attempts to secure reciprocal free trade between the colonies were thus thwarted by the policy of the British Government, and although Stanley's object had been to foster free trade throughout the Empire, colonial tariffs became increasingly protective in aspect. But these incidents evoked the first suggestion of any sort of union between the Australian colonies, for during a debate on the fiscal policy of Van Diemen's Land which took place in the New South Wales Legislative Council on September 10th., 1846, Deas-Thomson, the Colonial Secretary, said that there should be some control established as to intercolonial legislation, and it had been suggested that the appointment of a Governor-General would give effect to this, but whether such a plan was best or whether it would be wiser to establish such control by act of parliament, he would not at present give an opinion upon. Some controlling power was required as there was too much cause to fear that acts like these would lead to retaliation.¹⁾ In forwarding a protest against the legislation of Van Diemen's Land made in the New South Wales Council, Fitzroy made use of Deas-Thomson's suggestion. Referring to the number of questions of an inter-colonial character which were frequently arising, he said "It appears to me that, considering its distance from Home, and the time that must elapse before the decision of Her Majesty's Government upon measures passed by the Legislatures of these colonies can be obtained, it would be very advantageous to their interests if some superior functionary

1. Allin: Early Federation Movement of Australia. p. 52.

were to be appointed, to whom all measures adopted by the local Legislatures, affecting the general interests of the Mother country, the Australasian colonies, or their inter-colonial trade, should be submitted by the officers administering the several Governments,¹⁾ before their own assent is given to them." Commenting on this statement, one writer says, "The necessities of trade which called forth this, the first suggestion of a single control, were to the last the central fact upon which the federal movement depended, at once the most formidable obstacle - 'the lion in the path' - and the great impelling force."²⁾

Grey replied to this despatch on July 31st., 1847, and made "the first recorded statement of the case for Australian union."³⁾ Referring to his intention to prepare a Bill for erecting Port Phillip into a separate colony with a legislature of its own, he wrote, "It is necessary that while providing for the local management of local interests, we should not omit to provide for a central management of all such interests as are not local. Thus questions, co-extensive in their bearing with the limits of the empire at large, are the appropriate province of Parliament. But there are questions which, though local as it respects the British possessions in Australia collectively, are not merely local as it respects any one of those possessions; considered as members of the same empire, those colonies have many common interests, the regulation of which in some uniform manner, and by some single authority, may be essential to the welfare of them all. Yet in many cases such interests may be more promptly, effectually, and satisfactorily decided by some authority within

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1. Sept. 29th., 1846. Quick and Garran: Annotated Constitution of the Commonwealth of Australia, p. 80.
 2. Moore: The Constitution of the Commonwealth of Australia, p. 17. The phrase, "the lion in the way", seems to have been used first in this connection by James Service, ex-Premier of Victoria, at the 1890 Conference in Melbourne. The tariff problem was usually termed "the lion in the path" during the years of the federation movement.
 3. Quick and Garran: op. cit. p. 81.

Australia itself than by the more remote, the less accessible, and, in truth, less competent authority of Parliament Some method will be devised for enabling the various legislatures of the several Australian colonies to co-operate with each other in the enactment of such laws as may be necessary for regulating the interests common to those possessions collectively; such, for example, are the imposition of duties of import and export, the conveyance of letters, and the formation of roads, railways, or other internal communications traversing any two or more of such colonies

1)
The subject of your own despatch of the 29th., September, 1846, viz., the imposition of discriminating duties, in any Australian colony, on goods the growth, produce, or manufacture of any other Australian colony, will also be adverted to, and provided for, in that part of the contemplated Act of Parliament which will relate to the creation of a central legislative authority for the whole of the Australian colonies." 2)

Grey asked to be furnished with the local views on the proposed change and Fitzroy complied with the request but it is noticeable that his federal proposals received practically no criticism, either favourable or adverse. They were, in fact, almost overlooked in the attack on the other proposals. The petition from a public meeting held in Sydney on January 19th., 1848, forwarded by Fitzroy on February, 2nd., did not refer to them, 3) nor were any references made to them in the speeches as reported, 4) while the Sydney Morning Herald merely stated that the proposal was "comparatively harmless and uninteresting". This paper added "The erection of such a body as this, which we have called the Australian Congress, appears to us

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1. The despatch/addressed to Fitzroy.
2. Parl. Pap. 1847-8. XLII. 715. pp. 4-6. Bell & Morrell: British Colonial Policy, pp. 93-96.
3. Parl. Pap. 1847-8. XLII. 715. p. 29. Bell & Morrell: op. cit. p.103.
4. Sydney Morning Herald. Jan.21st., 1848. Parl. Pap. 1847-8. XLII. 715. pp. 30-44.

unobjectionable, except that there would be scarcely anything for it to do, and that it would be exceedingly difficult to find gentlemen able or willing to submit to the inconveniences which its duties though unfrequent of occurrence, would unavoidably impose. The place of meeting would doubtless be Sydney, as the largest and oldest of our seats of government."¹⁾

The Examiner (Launceston) was more strongly opposed to the proposal as likely to restrict constitutional freedom. There was not sufficient reason for appointing a Governor-General. Anything he would have to do could be done better by Imperial legislation²⁾. Later, this paper suggested the formation of a colonial consultative council at Westminster. "A federal union out here would be of little utility, but a combination under the walls of parliament might both win the attention of the Colonial Minister and bring his policy under instant scrutiny"³⁾.⁴⁾ The South Australian Gazette agreed with the Examiner. South Australia wanted to keep aloof from the other colonies.

Grey, therefore, referred to the matter again in his despatch, often called "the golden despatch", of July 31st., 1848. "The communication by land between the districts of New South Wales and Port Phillip is already completely established; that of the latter, with South Australia, is becoming not inconsiderable; and, in the rapid progress of events in those advancing communities, the intercourse between them will yearly become more and more intimate and frequent. If, therefore, these three portions of the mainland of Australia should be placed under distinct and altogether independent legislatures, each exerting absolute authority as to the imposition

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1. Jan. 4th. 1848.
 2. Jan. 19th., 1848.
 3. Mar. 22nd., 1848.
 4. May. 13th., 1848.

of duties on goods imported, the almost inevitable result will be that such differences will grow up between the tariffs of the several colonies, as will render it necessary to establish lines of internal custom-houses on the frontiers of each. The extreme inconvenience and loss which each community would sustain from such measures needs no explanation; it will therefore be absolutely necessary to adopt some means of providing for that uniformity in their commercial policy which is necessary, in order to give free scope for the development of their great natural resources, and for the increase of their trade. In what manner this may best be accomplished is a question of some difficulty, which I must reserve for more mature consideration." ¹⁾

After the arrival of this despatch, the Sydney Morning Herald wrote "The noble Secretary's suggestions respecting an inter-colonial tariff are such as all right-minded Australians must approve. Let our commercial intercourse with each other be free from all such trammels as were lately imposed by the legislation of our Tasmanian neighbours. Let it be conducted on terms of reciprocal freedom and goodwill and let these terms be placed on a basis which no one colony shall be able to disturb." ²⁾

Meanwhile, there was considerable political activity in New South Wales but of the various petitions and memorials which Grey's correspondence drew from the colonists, only one mentioned the federal proposals, the petition from Singleton, the signers of which were "decidedly adverse to a central legislature, as altogether unnecessary." ³⁾

On April 26th., Wentworth in the Legislative Council gave notice of his intention to move a series of resolutions, the first of which

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1. Parl. Pap. 1847-8. XLII. 715. pp. 45-46. Bell and Morrell: op. cit. pp. 104-106.
 2. ~~17th~~ ^{17th}, Nov. 1848.
 3. Parl. Pap. 1849. XXXV. (1074) p. 5.

was, in part, as follows: "That the only useful amendment of our present Constitution suggested in this Despatch, is the proposition relative to a Congress from the various colonial Legislatures in the Australian colonies, with power to enact laws on inter-colonial questions; that such a Congress, if not too numerous, might be got together for short periods at certain intervals, " 1)

Deas-Thomson spoke at length and supported the federal proposal chiefly because of the advantages that it would give to inter-colonial commerce.

Lowe announced his intention of moving as an amendment "that this Council sees no objection to the suggestion of an inter-colonial congress provided it be not too numerous, held short sessions and met at fixed intervals of time." 2)

He does not seem to have moved this and Wentworth's motion was later withdrawn and the following resolution was passed in committee, "almost without remark", says Fitzroy, though not reported to the House:- "That this Council cannot acquiesce in any plan of an inter-colonial Congress, in which the superior wealth and population of New South Wales, as compared with the other colonies of the Australian group, both individually and collectively, shall not be fully recognised as the basis of representation." 3)

On August 11th., 1848, Grey informed the House of Lords that as the feeling of the colonists was against the constitutional changes he had suggested, he had decided not to propose any measure that session but to modify during the recess the provisions of the Bill which he intended to introduce in the next session.

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1. Parl. Pap. 1849. XXXV. (1074).p. 11.
 2. Allin: Early Federation Movement, p. 75.
 3. Parl. Pap. 1849. XXXV. (1074).p. 9.

In May 1849, a circular to the Governors of the Australian Colonies (except New Zealand) was accompanied by the report of the Committee of the Privy Council for Trade and Plantations.¹⁾ Grey regarded the proposed changes as so important that he had advised the Queen to refer the matter to this Committee and a Bill was to be framed in accordance with its recommendations.

Referring to the differences between the tariffs of the colonies and the necessity for uniformity, the Committee recommended that a uniform tariff should be established by Parliament, to take effect not sooner than twelve months after the promulgation of the proposed Act for the constitutional changes. The interval would afford time for making any financial arrangements which the contemplated change might require. The existing tariff of New South Wales, with some modifications, would be adopted as the general Tariff for Australia but it was proposed at the same time to provide for making any alteration in this general tariff which time or experience might dictate and this could only be done by creating some authority to act for all those colonies jointly. For this purpose one of the Governors was to hold a commission of Governor-General of Australia and be authorized to convene a body to be called the General Assembly of Australia at any time and at any place in Australia which he might appoint. The first convocation should not take place until two or more of the Australian Legislatures requested it. This Assembly was to consist of the Governor-General and a single House, to be called the House of Delegates, composed of not less than twenty, nor more than thirty members elected

1. This important Report may be found in Parl. Pap. 1849. XXXV. and 1850. XXXVII. The latter volume repeats some of the correspondence concerning Australian affairs found in the former and in Parl. Pap. 1847-8. XLII. The Report is also reprinted in Grey: Colonial Policy; Keith: British Colonial Policy and (in part) in Egerton: Federations and Unions.

by the Legislatures of the different colonies. The Committee recommended that the Queen should be authorized to establish provisionally all the rules necessary for the election of the delegates and for the conduct of the business of the Assembly, but that it should be competent for that body to substitute other rules with the Queen's sanction. The Assembly should have power to make laws for the alteration of the number of delegates or for the improvement in any other respects of its own constitution, such laws to be confirmed by the Queen.

The legislative authority of the Assembly was to be confined to the following topics:-

1. The imposition of duties upon imports and exports.
2. The conveyance of letters.
3. The formation of roads, canals, or railways, traversing any two or more such colonies.
4. The erection and maintenance of beacons and lighthouses.
5. The imposition of dues or other charges on shipping in every port or harbour.
6. The establishment of a general Supreme Court, to be a court of original jurisdiction, or a court of appeal for any of the inferior courts of the separate provinces.
7. The determining of the extent of the jurisdiction and the forms and manner of proceeding of such Supreme Court.
8. The regulation of weights and measures.
9. The enactment of laws affecting all the colonies represented in the General Assembly on any subject not specifically mentioned in the preceding list, but on which the General Assembly should be desired to legislate by addresses for that purpose presented to them from the legislatures of all those colonies.

10. The appropriation to any of the preceding objects of such sums as may be necessary, by an equal percentage from the revenue received in all the Australian colonies, in virtue of any enactments of the General Assembly of Australia.

"By these means", the Report concluded, "we apprehend that many important objects would be accomplished which would otherwise be unattainable, and by the qualifications which we have proposed, effectual security would, we think, be taken against the otherwise danger of establishing a central legislature in opposition to the wishes of the separate legislatures, or in such a manner as to induce collisions of authority between them. The proceedings also of the Legislative Council of New South Wales, with reference to the proposed changes in the Constitution, lead us to infer that the necessity of creating some such general authority for the Australian colonies begins to be seriously felt".

Schedule 2., provided that each colony should send two members to the House of Delegates, with one additional member for every 15,000 of the population. The total number of members would thus have been 25, divided as follows:-

New South Wales (population 155,000) 12; Victoria (33,000) 4;

Van Diemen's Land (46,000) 5; and South Australia (31,000) 4.

1)
A despatch accompanying the Report informed the Governors that a bill to give effect to the proposals would be introduced at once²⁾ but on August 18th., Grey had to state that owing to pressure of urgent business, he had not been able to proceed with the Bill. It was, however, to be introduced again as soon as possible after Parliament re-assembled, modified in one important particular.

1. May 24th., 1849.

2. Parl. Pap. 1850. XXXVII. (1160). p. 54.

"The provisions for a general and uniform tariff to be established by the Act will be omitted. For while Her Majesty's Government continue to think it of the utmost importance, that all possible freedom should be given to that inter-colonial trade, which is year by year increasing in importance between the (Australian) settlements, inquiry and discussion have rendered it evident, that the proposed uniformity could not be carried into practical effect, without a variety of subsidiary arrangements, which could only be well considered and matured on the spot."¹⁾ It was, therefore, proposed that when re-introduced the Bill should not impose a uniform tariff on the colonies but empower them to establish one through the General Assembly.

Hawes, the Under-Secretary for the Colonies, had introduced into the Commons "a Bill for the better government of the Australian colonies." This was on June 4th., 1849, before comment on the proposed changes had been received from Australia, and was done in order to satisfy as soon as possible the demand for the separation of Port Phillip. Sections 29-36 contained the federal clauses.

Section 29 dealt with the uniform tariff and free-trade between the colonies, the details of which were placed in a schedule. This tariff was to take effect one year after the proclamation of the Act.

Section 30 provided for the appointment of a Governor-General who should have power to convene the General Assembly of Australia, when petitioned to do so by at least two colonial Legislatures. The House of Delegates was to be elected by the Legislatures on the basis of two representatives for every 15,000 of the population.

By Section 31, it was provided that Western Australia might be

1. Parl. Pap. 1850. XXXVII. (1160). pp. 64-65.

admitted to membership of the General Assembly when a representative Legislative Council was established in that colony, the number of her representatives in the House of Delegates being decided by the Queen-in-Council.

Section 32 gave power to the General Assembly to alter its constitution subject to the approval of the Queen-in-Council.

Section 33 referred to the subjects of legislation. To those already given in the Report, there was added "the conveyance of letters between colonies," to which Grey had referred in his despatch to Fitzroy on July 31st., 1847. The Committee had recommended that federal appropriation should be limited to such revenues in the several colonies as were received "in virtue of any enactments of the General Assembly of Australia," but in the Bill, federal requisition could be applied to revenues "received in all the colonies and subject to be appropriated by the legislatures of such colonies respectively." The colonial revenues, from whatever source derived, subject to legislative appropriation, were thus to be thrown open to federal assessment. The colonies would, therefore, not have exclusive control of their own revenues.

Section 34 prohibited the imposition of discriminatory duties, exemptions, drawbacks, bounties or other privileges.

Section 35 prohibited the imposition of import duties on supplies for the naval and military forces, as well as the imposition of duties, the granting or with-holding of trade privileges, and the levying of shipping dues, in conflict with Imperial treaties. The supremacy of the treaty-making power of the Crown was thus to be secured against any repugnant commercial legislation of the colonies. The mother country would be able to dictate the commercial policy of the Empire through its treaty - making power and to that extent limit colonial fiscal freedom.

Section 36 gave pre-eminence to the legislation of the General Assembly within the federal jurisdiction. The Report implied that, in case of conflict, the laws of the General Assembly should prevail. Disagreement between the central and the local legislatures was to be referred on petition of any of the legislatures to the Queen-in-Council (not to the Supreme Court), and the enactments of the Assembly were to have effect until the decision was made known.

Introducing the Bill, Hawes said that two of its principal objects were "to create a federal union of the colonies for certain general purposes"¹⁾ and "to attempt to place the colonial trade on an equal footing between colony and colony, so as to place them in their commercial relations with each other on precisely the same footing as the counties of England."²⁾

Gladstone said he felt anxious about the constitution of the federal legislature. In a single chamber, such as was proposed, the great difficulty was whether the representation was to be on the basis of population or founded on the notion of treating the different colonies as individual political bodies. It would be a weakness for New South Wales to have 12 out of the 25 delegates, and, although New South Wales was entitled to a considerable share of the representation, it seemed most important that the other colonies should enjoy perfectly free and fair representation. This could only be attained by adopting the principle of a double chamber. He also criticised the establishment of a uniform tariff in the Australian colonies by Parliament as an unnecessary extension of Parliamentary legislation. He thought a uniform tariff would be advantageous but he would have preferred to see it established by colonial legislation. Once imposed by Parliament, a uniform tariff could only be altered by

1. Hansard, 1849. Vol. 105. p. 1126.
 2. Ibid. p. 1127.

the federal legislature which might not be called into existence for a considerable time. Meanwhile this tariff might cause great jealousy and ill-feeling among the colonists, thus defeating one of the reasons for its imposition.¹⁾

Mr Vernon Smith not only criticised the uni-cameral federal legislature but believed that a federal government would be unworkable because of the distances and difficulty of communication. Moreover, he thought that the correspondence showed that the colonists were not aware that federal government was to be imposed on them and he would like to have their opinions on such a measure before it was dealt with. The inhabitants of the Port Phillip District, he felt sure, would be opposed to it.²⁾

Mr. McGregor thought each colony would have the power to regulate its own tariff, the federal government interfering only to see that the measures of one colony did not clash with the interests of another.³⁾ The first reading took place on June 11th., and the second reading was put down for June 18th. but as the Bill related to trade, it should have been first considered in committee of the whole house. As this had not been done it was withdrawn and re-introduced, the first reading being on June 26th., but it was late in the session and there was a general unwillingness to debate such an important measure in a hurry.⁴⁾

On July 2nd., Grey announced in the House of Lords that in order to promote the passage of the Bill that session, clauses relating to the imposition of a common tariff would be omitted since there was so much opposition to them in the House of Commons. He was still

1. Hansard. 1849. Vol. 105. pp. 1128-1133.

2. Ibid. pp. 1133-1135.

3. Ibid. p. 1135.

4. On this date Molesworth made his well-known attack on the administration of colonial policy and in the debate which followed Hume, Hawes, Gladstone, Labouchere, Francis Scott, Adderley and Lord John Russell took part. Hansard. 1849. Vol. 106. pp. 937-1002.

in favour of a common tariff and thought it would facilitate inter-colonial trade but its creation in Great Britain would also entail the creation of detailed machinery in order to carry it out. As it was intended that that part of the Act should not come into effect until one year after the proclamation of the Act, there would be plenty of time for the colonies to come to an agreement and to introduce a measure, if they thought proper, to give it effect. With regard to the federal clauses, Stanley said it would be possible for a minority of the colonies to coerce the rest. For example, New South Wales, a populous and wealthy colony, could by securing the co-operation of Van Diemen's Land or one of the other smaller colonies, succeed in absorbing the others against their will¹⁾. Stanley again criticised the proposals on July 17th., He said that Grey intended to transfer to the federal government the power of adjudicating on questions that were no less imperial than colonial concerns and to give a certain power to the federal assembly, although some of the parties represented in it might dissent from the alterations made by the federal government. He suggested the omission of all clauses, except those referring to the separation of Port Phillip, if Grey wished the Bill passed that session.²⁾

Jackson, the Van Diemen's Land Agent, was anxious to get the bill passed and discussed it, clause by clause, with Molesworth who, with others, agreed to support it if the municipal and federal clauses were omitted. When Jackson asked Grey to delete these clauses, Grey was inflexible as he considered them essential to the character of the measure, specially emphasising the permissive nature of the federal clauses.³⁾

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1. Hansard. 1849. Vol. 106. pp. 1115 - 1131.
 2. Hansard. 1849. Vol. 107. pp. 463-466.
 3. Examiner (Launceston) Oct. 27th., 1849.

Scott, the Parliamentary Agent for New South Wales was hostile to the Bill and in a letter to the Speaker of the New South Wales Legislative Council (August 1st., 1849), he called it "crude and ill-digested." The General Assembly would be useless on account of distances and inter-colonial jealousy. New South Wales would not benefit from it and, if the Assembly sat in Sydney, she would incur the odium and jealousy of the other colonies.¹⁾ It is not surprising, therefore, that Lord John Russell decided to withdraw the Bill. Hence Grey's despatch of August 18th.

The delay, however, afforded more time for the arrival of criticism from the colonies much of which was received in time to affect the 1850 Bill. In a despatch of December 28th., 1849, Denison, Lieutenant-Governor of Van Diemen's Land, expressed the opinion that Van Diemen's Land would gain few advantages from a federal connection with the mainland colonies, while many difficulties and inconveniences would arise because of the marked difference in the occupations and pursuits of the colonies. Van Diemen's Land he thought, was destined to be an agricultural and manufacturing community while New South Wales would be a pastoral country. Their interests would be different and as New South Wales would be predominant in the Assembly, the interests of Van Diemen's Land were bound to suffer. This predominance of New South Wales was his chief objection and one that was justified by history.²⁾

The Examiner (Launceston) on the other hand thought a federal union would be highly desirable if its powers were few and accurately defined. Because of their community of interests, the permanent prosperity of the Australian colonies would be best

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1. Sydney Morning Herald. Nov. 26th., 1849.
 2. Parl. Pap. 1850. Vol. XXXVII. (1182) pp. 3-8.

secured by unity. "Instead of a number of weak isolated settlements vexing each other with retaliatory duties and countervailing prohibitions which retard their individual advancement, Australia would be one vast and growing Empire."¹⁾

²⁾ Later this paper said that these colonies would either become an independent federation or "seek shelter under the wing of the American eagle."

Grey did not agree with Denisons's opinions. In a long despatch on April 11th., 1850, he pointed out that, though by reason of its geographical position, Van Diemen's Land might not feel the same need as the mainland colonies for combining for the accomplishment of certain objects of common interest, there were many advantages to be gained by doing so, for example, access to the Court of Appeal and improved postal communication. He thought it undesirable that Van Diemen's Land should be excluded from sending representatives to the General Assembly, especially as its powers would extend only to those colonies which concurred in convoking it³⁾.

The South Australian Legislative Council on December 15th., 1849, passed the following resolution:- "That, in the opinion of this Council, it is most inexpedient to create an Elective General Assembly, for the following reasons:-

1. There is a great dissimilarity in the pursuits and interests of the several provinces.
2. The overwhelming preponderance that the larger provinces would have in the Assembly would be greatly injurious to the lesser.
3. The Council cannot see any point upon which benefit would accrue to any of the provinces by the establishment of such an Assembly.⁴⁾

1. Jan. 2nd., 1850.
2. May 9th., 1850
3. Parl. Pap. 1850. Vol. XXXVII. (1182). p. 12.
4. Ibid. (1190). p. 5.

A public meeting held on December 21st., also opposed the establishment of a General Assembly. "The formation of a General Assembly of the Australasian colonies, however desirable on the majority of matters proposed to be left to the decision of such Assembly, is in principle as in form a Federal Union; is, in a British sense, unconstitutional, as morally opposed to the social institution of the colony, and endangering our colonial independence."¹⁾ The colonial press, on the whole, seemed more favourable than the public or the legislatures, but there was very little enthusiasm for the federal clauses. But Grey was strongly attached to them and, in preparing the revised Bill, he hoped to facilitate its passage by removing the clauses which had aroused the greatest objections and inserting permissive provisions. During the year's delay, more interest was aroused in the colonies generally but the federal clauses were overshadowed by the changes in the colonial constitutions.

²⁾ Nevertheless The Times wrote "To us at home the most striking feature of the measure which has just been submitted to the judgment of the colonists is the proposed federal union of the Australian settlements. Grand as the idea is, we believe it to be not less necessary: for though the time may be yet distant when the federation may be required for self-defence against a common enemy or for some other imperial purpose, it is already wanted for the settlement of a common tariff without which the colonies are likely to be brought into an early and unpleasant collision We know not why we should shrink from a scheme equally pregnant with benefit whether the Australian colonies shall continue our own, or whether they are fated

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1. Parl. Pap. 1850. Vol. XXXVII. (1183). p. 19. Bell & Morrell: British Colonial Policy. p. 122.
 2. Feb. 4th., 1850.

to become the United States of the southern hemisphere."

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The Daily News, on the other hand, spoke of "the crotchets
" of a central Australian congress, while the Society for the Reform of Colonial Government whose spokesman in the Commons was Adderley, considered that a federal legislature would be an encroachment on the constitutional functions of the colonies. Such a legislature should result from a feeling of a common need on the part of the colonies themselves. The predominance of New South Wales in the Assembly and the imposition of a common tariff would lead to serious evils.²⁾

The Legislative Council of New South Wales, on the motion of Wentworth unanimously resolved "That although by the Bill now before parliament for the better government of the Australian colonies, it is proposed to vest in the federal or general assembly to be hereby constituted the power to redress this grievance, this House, seeing the uncertainty that any two of these colonies will agree to set the general assembly in motion, that the process for calling it together, even though they should agree, is very dilatory, and that there is little chance of uniformity in regard to a uniform price for the public lands of these colonies, so diverse in climate, productions, soil, does not look to any relief from a legislative body so unfitted to deal with its grievance, and insists on the justice and expediency of vesting plenary powers with respect to the public lands in these colonies in the several legislatures."³⁾ This was on August 28th., 1850, by which time the remains of Grey's proposals as amended had become law, with the provisions above criticised deleted.

1. June 19th., 1849.

2. Allin: Early Federation Movement. p. 174.

3. Ibid. p. 184.

4. Hansard, 1850, Vol. 106. pp. 127-127.

On February 8th., 1850, Lord John Russell, in asking leave to introduce the revised Bill, made a long statement on colonial¹⁾ policy. Referring to the Bill, he said it was intended to add to the powers of the General Assembly the control of the waste lands. The first reading was on February 11th., and the second was moved by Hawes on February 18th. The federal clauses were numbers 26 to 34. The proposal to impose a uniform tariff was dropped. No differential duties were to be imposed in future; otherwise the colonies were free to arrange their own tariffs. The colonies were to be represented in the General Assembly by two members each, with an additional member for every 15,000 of population, the members to be elected by the petitioning legislatures for a period of 3 years. The Governor-General was to have power to convene the General Assembly when and where he thought fit in any one of the colonies represented, to prorogue and dissolve it. Only those colonies which petitioned for the convoking of the Assembly would be included in the federation and subject to federal legislation. The question of secession was not mentioned. To the powers of the Assembly was added the control of the waste lands, probably an attempt on Grey's part to win popularity in the colonies for the federal scheme. The laws of the Assembly were to have pre-eminence over those of the local legislatures. Its powers to make laws were not to supersede the authority of the local legislatures as regards their respective colonies except with respect to crown lands, but would supersede any law repugnant to federal legislation.

The clauses were still somewhat vague and indefinite, important matters being either omitted or left undetermined, so that there was only a mere framework of a federal constitution. In the original

1. Hansard. 1850. Vol. 108. pp. 535-567.

Bill, only the legislation of the colonial councils passed subsequent to the formation of the General Assembly was to be void if repugnant to federal enactments, but now the federal predominance was to be extended to cover past legislation as well. The important modifications, made with the idea of popularising the Bill both at home and in the colonies were:-

1. The omission of the clauses providing for the establishment of an imperial tariff.
2. The inclusion of the control of waste lands in the powers of the Assembly.
3. The application of federal legislation only to those colonies that wished to be subject to it.

The debate was keen and among those who spoke were Scott, Labouchere, Roebuck, Lord John Russell, F. Peel, Molesworth, Hawes, Milnes and Adderley. Peel spoke of the necessity of equality of representation of the colonies and representation in proportion to population, so that the federal union might represent the interests of the colonies as collective bodies and the interests of the inhabitants as individuals. In order to prevent the encroachment¹⁾ of one colony on another two chambers would be necessary.

Mr. Vernon Smith said that the Under Secretary for the Colonies had not given a single valid argument in favour of federation. He opposed it because for such a principle there was no parallel, no satisfaction expressed by the colonists, no experience to which they could appeal. The colonists did not want it; it would have no power to deal with foreign countries, the chief purpose of the federation in the United States;²⁾ and it was republican. To deal satisfactorily with all the questions of vital importance to the Australian colonies, Milnes

1. Hansard. 1850. Vol. 108. p. 1000.

2. Ibid. pp. 1013-1014.

considered that the Assembly would have to be analogous to the Congress of the United States. He approved of the federal plan and trusted that the United States of the southern world might one day represent and advance the British name, British language and British institutions, as well as the great federation of the world.¹⁾

Further consideration was delayed until March in order that more information from the colonies might be made available. It was not until late in April that the Bill got through the Committee stage. Smith once more attacked the federal clauses because a federal assembly was not desired by the colonists and would be impossible because of the distances between the colonies.²⁾

Lord John Russell upheld the proposal because the clauses were permissive. If not needed at once, such an assembly could be called into being when it was wanted without the inconvenience of waiting for Parliament to give the necessary powers. There were many subjects of common interest that could be advantageously dealt with by it.³⁾

Roebuck said that the larger states would be able to over-ride the smaller ones but he was in favour of the proposal because of the great promise it held for the future.⁴⁾

Disraeli wished to support the Government in treating the colonies with equality but he felt bound to oppose the clauses as they were drawn, as he believed they would defeat this object. He believed they would never see federation existing in the colonies, if inequality, and not equality, were to be the basis of their legislation. Russell replied that the Bill provided for equality by giving each colony the right to send two members to the General Assembly, while the right of representation according to population was consulted by allowing one additional member for every 15,000 inhabitants.⁵⁾

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1. Hansard. 1850. Vol. 108. pp. 1019.
 2. Hansard. 1850. Vol. 110. p. 799.
 3. Ibid. p. 800.
 4. Ibid. p. 801.
 5. Ibid.

Molesworth said the proposal would lay the foundation of a great independent federal republic in Australia. A federal assembly would lead to separation. The monarchy was the true federative assembly that should be contemplated for a long time to come. The questions proposed to be submitted to the Assembly could be settled by arrangement between the colonies but if they set up an Assembly and gave it only a few matters to deal with, it would soon encroach on the Imperial power.¹⁾ Lebouchere held quite the opposite view and that the establishment of a general assembly would strengthen the connection with Great Britain.²⁾ Adderley opposed the measure because it was condemned by the colonial governors, the colonists themselves, by the Government, and in fact, by every interest under Heaven. He asked the members to imagine what would happen if two colonies petitioned for and obtained an assembly while the other three established a rival assembly! New South Wales was the only colony to want a general assembly as it would enable her to manage the destinies of the other four colonies. He thought the scheme was due to Grey's mania for finishing off constitutions. Having failed so often in constitutions in single colonies, he now sought to unite five colonies all in one Bill.³⁾

The clause was carried by 63 votes to 10, but was withdrawn for further consideration. On May 6th., Labouchere informed the House that the Government, while adhering to the principle on which the measure had originally been framed, were prepared to alter it so as to give the smaller colonies sufficient weight in the federal assembly if they joined it.⁴⁾ The change gave four representatives to each colony with an additional member for every 20,000 inhabitants. This left the

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1. Hansard. 1850. Vol. 110. p. 802.
 2. Ibid. p. 802.
 3. Ibid. p. 804.
 4. Ibid. p. 1164.

number of representatives for New South Wales unchanged but increased those of the other colonies to 19. The Bill passed the third reading on May 13th., by 226 votes to 128.¹⁾

The first reading in the House of Lords was on May 14th., the second on May 31st., when the attendance did not reach 20.²⁾

Referring to the proposal for a general assembly, Grey said he thought that it would strengthen the tie between the colonies and the mother country. Such an assembly might not be needed at once, but it was provided for when the need arose. Further, as the clauses were permissive, he thought the colonies would be more favourable to it.³⁾

Lord Wodehouse thought the scheme for a federal union was premature, liable to cause difficulties between the colonies and weaken the stability of the Empire, and dangerous because it would give too much influence to New South Wales.⁴⁾ The point to which Lord Stanley entertained the strongest objection was the perfectly novel and wholly unnecessary and, therefore, mischievous introduction of the machinery of a federal government. The colonies themselves should be allowed to state the nature of the federation they desired and should petition Parliament for the necessary legislation when they felt the need of it.⁵⁾

On June 1st., Robert Lowe addressed a meeting of the Colonial Reform Society in London and found occasion to criticise the federal clauses in the Bill. "I have never met any man in Australia who thought such a scheme practicable. It is treated there as an absurdity, an opinion in which I entirely concur. In the first place it would be attended with immense expense You will have, in fact, two Governments to pay for. In the next place, the Federal Government

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1. Hansard. 1850. Vol. 110. p. 1423.
 2. Hansard. 1850. Vol. 111. p. 511.
 3. Ibid. pp. 507-508.
 4. Ibid. p. 521.
 5. Ibid. p. 526.

will represent nothing. There is no inter-colonial feeling at all, or hardly any. They have no foreign policy. They know the mother country, but of the neighbouring countries they know nothing. They have no other community of feeling, and I believe they have no community of interest."¹⁾ If the assembly attempted to handle the land question there would be jealousy and a clash of interests, so that legislation would be impossible. This would also apply to other subjects. Lowe's statement was probably exaggerated but whatever he said would carry weight, especially with the Colonial Reform Society which was actively engaged in spreading information with regard to the colonies and criticising colonial policy. Many of those present at Lowe's address were members of Parliament and were taking part in the debates on the Bill. Molesworth himself was in the chair. Moreover Lowe's speech was stated to be "the latest and most explicit authentic statement" of the opinion of New South Wales.²⁾

A few days later, June 6th., Lord Monteagle (who had been at Lowe's lecture) presented to the Lords a petition from Scott, the Parliamentary Agent for New South Wales, in which it was stated "that the Federal Assembly proposed in the Bill is calculated to produce embarrassment and disunion."³⁾ On June 10th., Brougham also presented a petition against the Bill from certain persons interested in the Australian colonies and moved that they and also Scott should be heard by Counsel but it was resolved in the negative by 25 votes to 33. As Brougham said, it would undoubtedly have been Lowe who would have addressed the House.⁴⁾ The same day, Wilberforce, Bishop of Oxford, (another of Lowe's audience) moved that the Bill be referred to a

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1. Martin: Life and Letters of Viscount Sherbrooke. Vol. II. p. 11.
 2. Ibid. p. 4.
 3. Parl. Pap. 1851. Vol. XXXV. (1303). p. 31.
 4. Hansard. 1850. Vol. III. pp. 943-956.

Select Committee of the House but later withdrew the motion. In the course of his speech, he said that the most monstrous proposition in the Bill was the provision for uniting the four colonies into one federation. This was sowing the seeds of the "dismembrance" of the empire, the unity of which depended on the reserve to ¹⁾ the centre of the very questions which were to be transferred to the assembly. Because of the distances between the colonies, it was almost certain that a common policy would not suit all the colonies and union was impossible.

When the Bill was in Committee, Stanley once more attacked it and brought up the familiar arguments against federation. He moved that clause 30 which provided for the establishment of a general assembly should be expunged. Grey defended it and offered to amend it to make it possible for a colony to join the federation for certain purposes only, as for example, to have access to the Court of Appeal, thereby saving the expense of appeals to the Privy Council, or for the sake of making common customs or postal arrangements. He believed the federal system was essential to the welfare of Australia and would grow with the needs of the colonies. ²⁾ This clause was carried by a majority of one (23 to 22). Stanley's criticism's certainly pointed out some of the anomalies that might arise so Grey, in view of the opposition and rather than endanger the whole Bill, dropped the federal clauses, ³⁾ so that the measure which finally passed the Lords on July 5th., and the Commons ⁴⁾ on August 1st., and which received the Royal Assent on August 5th.,

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1. Hansard. 1850. 111. p. 962.
 2. Ibid. pp. 1217 - 1227.
 3. Hansard. 1850. 112. pp. 972 - 980.
 4. Hansard. 1850. 113. pp. 615 - 634.

made no provision for any sort of federal union amongst the Australian colonies. Transmitting the Act to Fitzroy on August 30th., 1850, Grey explained that the Government had not changed its opinion as to the importance of these provisions. But it was found that the clauses were liable to practical objections to obviate which special legislation would have been required which would have caused further delay. "I am not, however, the less persuaded that the want of some such central authority to regulate matters of common importance to the Australian colonies will be felt, and probably at a very early period; but when this want is so felt, it will of itself suggest the means by which it may be met If two or more of these legislatures should find that there are objects of common interest for which it is expedient to create such an authority, they will have it in their power, if they can settle the terms of an arrangement for the purpose, to pass Acts for giving effect to it, with clauses suspending their operation until Parliament shall have supplied the authority that is wanting. By such Acts the extent and objects of the powers which they are prepared to delegate to such a body might be defined and limited with precision, and there can be little doubt that Parliament, when applied to in order to give effect to an arrangement ¹⁾ so agreed upon, would readily consent to do so."

In order to facilitate such an arrangement, Grey on January 13th., 1851,²⁾ forwarded Commissions to Fitzroy by which he was appointed Governor of each of the four colonies, New South Wales, Van Diemen's Land, South Australia and Victoria and Governor-General of all the Australian possessions, including Western Australia. The colonies of Van Diemen's Land, South Australia and Victoria were to be

1. Parl. Pap. 1851. XXXV. (1303). pp. 36-37.

2. Ibid. p. 40.

administered by Lieutenant-Governors. Grey did not intend the Governor-General to interfere in the government of those colonies with respect to internal matters, nor was any change to be made in the method of administering the government of those colonies, the Lieutenant-Governors of which would still correspond directly with the Secretary of State. But as the growth of the colonies would render mutual arrangements beneficial to them, the Governor of the oldest and largest colony was to be provided with a general authority to superintend the initiation and foster the completion of such arrangements. The Lieutenant-Governors were to communicate with the Governor-General on all local measures which might affect the interests of the other colonies and, in the absence of instructions from the Home Government, were to be guided by his advice. With regard to New South Wales and Victoria, no legislation for altering the existing tariffs should be undertaken in either colony without previous communication between the two Governors. If the Governor-General visited any of the other colonies, he should assume the government of it, and while he was there, the functions of the Lieutenant-Governor would be suspended. As he was not likely to visit Western Australia, the government of that colony remained vested entirely in the Governor. The Lieutenant Governors received the title of Governor in 1855 but the Governor of New South Wales continued to have the title of Governor-General until 1861, the institution of responsible government having by that time made the title an anomaly. Newcastle decided not to renew the commission of the Governor-General since the title implied a species of authority and pre-eminence over the Governors of the other colonies which could not justly be continued, and which if continued, would cause dissatisfaction prejudicial to their common interests.

Neither Fitzroy nor Denison visited other colonies during their terms as Governor-General so there is no example of how the scheme would have worked. Fitzroy did not attempt to bring about any legislative collaboration

with Victoria, though at times it looked as if Denison felt tempted to exercise the authority vested in him in order to smooth the commercial differences between New South Wales and Victoria.

Thus the first attempt at any sort of union amongst the Australian colonies came to an inglorious end but the idea lived on and was frequently under consideration during the coming years. Grey's proposal was premature. Neither in Great Britain nor in Australia was public opinion ready for such a move, while even those who were considered to be students of colonial affairs found fault with it - Molesworth, for example, because Grey had not consulted the colonies on the subject; Stanley, because the clauses were not drafted carefully enough and would, as they stood, be open to various interpretations. Liberal as the measure was for those times, it failed to please the experts of the Colonial Reform Society who prided themselves on their liberal outlook with regard to colonial affairs. Mackay, in an analysis of the Bill, offered some typical objections, the chief of which were that the same individual could not properly fill the offices of local Governor and Governor-General; the faulty drafting of the Bill left loop-holes for anomalies; the General Assembly would be held in the leading-strings of the Colonial Office; justice to the individual colonies would require two houses in the federal legislature; the powers of the Assembly were vague. He predicted a conflict of authority between the local and the federal legislatures and clause 33 giving them concurrent authority except¹⁾ over waste lands, he styled "a clause for setting the colonies by the ears!"

Particularly unfortunate for Grey was Lowe's inopportune arrival in London while the Bill was before Parliament. Next to Wentworth, Lowe was Grey's most effective opponent and his address to the Colonial Reform

1. Analysis of the Australian Colonies Government Bill. pp. 46-63.

Society's audience, which included so many members of both Houses, was, by reason of his recent arrival from the much discussed colonies, almost oracular in its effect.

The Bill was unfortunate in its origin. In the colonies anything issuing from the Colonial Office was suspect; coming from one so unpopular as Grey it was doubly so, even if one permitted oneself secretly to think that it was not such a bad idea, but the colonists were always sensitive about dictation from without and the forcible imposition of constitutional change. The federal scheme did not receive the attention it deserved because it was set forth with, and overshadowed by, other proposals. If it had been placed before the colonies after the other constitutional changes had become operative, and if a federal sentiment had been fostered, it might have received a more impartial judgment. As it was, it was barely noticed in the heat of the controversy over the separation of Port Phillip, district councils, a legislature of one or two chambers, transportation, responsible government. Why separate Port Phillip from New South Wales and then re-unite them in a federal union? If Port Phillip found representation in the Legislative Council in Sydney almost impossible, would not South Australia and Van Diemen's Land be faced with the same difficulty with regard to the General Assembly? No one seemed convinced of the necessity for union. South Australia wished to keep apart from colonies whose origins were not as honourable as her own. The tariff difficulties were felt by only a comparatively few people at the time, so that the advantages of a uniform tariff did not attract. On the other hand, it rather repelled Van Diemen's Land because this colony depended much more on her customs for revenue than did the other colonies. Control of waste lands, held out as an inducement, was another source of alarm, as there were those who imagined that a uniform price would be imposed regardless of locality, quality

or any other consideration. The individual colonies all discovered differences in their conditions that would make union impossible. The smaller ones feared domination by New South Wales, who, in turn, feared the loss of her position as the leading colony, while they were all afraid of surrendering any of their powers of self-government. They were all pre-occupied with inter-colonial jealousy and rivalry, and the development of their own local economic and political resources. A union would have been dependent on understanding and co-operation, and these were entirely lacking at the time.

There was no foreign menace to be feared. Isolation from Europe and a sense of security engendered by the prestige of the Mother Country as yet unshaken by the Crimean War and the Indian Mutiny, removed all thoughts of aggression from without, so that defence, such an important motive in the later federation movement, was not even mentioned in the powers of the General Assembly.

Grey's scheme was not due merely to a mania for constitution-making, even though that impression might have been given by his hierarchy of the district councils, provincial legislatures, and General Assembly, with the Imperial Parliament supreme over all. He foresaw the problems that would become more and more pressing as the colonies grew and he made a praise-worthy attempt to deal with them before they had become too complicated. But there was not the same political foresight in the colonies and though the operation of his proposals, even if passed, depended entirely on the wishes of the colonies themselves, those for whose good they were intended would have nothing to do with them until chastened by experience. Yet the rejection of the proposals passed almost unnoticed in the colonies. The Sydney Morning Herald¹⁾ thought

it regrettable, and though a federation would have been attended by many difficulties, it would have given the colonies additional weight in their protests against the continuance of transportation.

After this, federation was no longer directly advocated by the Colonial Office. "The history of the movement from this time ceased to revolve round the colonial policy of an imperial ministry, but was now transferred to Australia to be shuffled backwards and forwards in the different legislatures and between the several colonies. The question at last had lost its imperial character and had become a truly Australian issue".¹⁾

After considering the treatment which Grey's federal proposals received, one is rather surprised to find similar proposals being made almost immediately by the legislatures of New South Wales and Victoria. The influx of population following the gold discoveries had removed the disparity between these two colonies so Victoria discovered that in a federal union, she would have practically the same representation as New South Wales and therefore would not be likely to be under the domination of the older colony. This feeling was reflected in a motion by Johnson in the Victorian Legislative Council on September 14th., 1852. - "That Victoria, having now arrived at the position of being the first and most important of the Australian colonies, as possessing the most extensive commerce, the greatest revenue and the most valuable exports of both gold and wool, and the widest extent of fertile soil, and being besides the most centrally situated in the Australian group, is in the opinion of this House the proper location for the seat of the federal government". It was unanimously resolved to present an address to

1. Allin: Early Federation Movement. pp. 242-243.

the Queen praying that Melbourne should be the place of residence of the Governor-General by reason of its advantages as a postal and military centre and as the seat of an Australian Court of Appeal.¹⁾

This aroused great resentment in the Sydney press but Newcastle replied that he did not deem it advisable to recommend Her Majesty to constitute any seat of supreme government in the Australian colonies. (February 5th., 1853).

A Select Committee of the Legislative Council of New South Wales, under the chairmanship of Wentworth, presented a report on July 28th., 1853, regarding a new constitution for that colony. One section of the report stated, "One of the more prominent legislative measures required by this Colony and the Colonies of the Australian group generally, is the establishment at once of a General Assembly to make laws in relation to the inter-colonial questions which have arisen or may hereafter arise among them. The questions which should claim the exercise of such a jurisdiction appear to be as follows:-

- 1st. Inter-colonial tariffs and coasting trade.
- 2nd. Beacons and lighthouses on the coast.
- 3rd. Railways, roads, canals etc., running through any two of the colonies.
- 4th. Inter-colonial penal settlements.
- 5th. Inter-colonial gold regulations.
- 6th. Postage between the said colonies.
- 7th. A general court of appeal from the Courts of such colonies.
- 8th. A power to legislate on all other subjects which may be submitted to them by addresses from the Legislative Councils

1. Melbourne Herald. Sept. 15th., 1852.

and Assemblies of the other colonies, and to appropriate to any of the above objects the necessary sums of money, to be raised by a percentage on the revenues of all the colonies interested".¹⁾

As it might have excited jealousy if a jurisdiction of such importance were inserted in a Constitution Act for New South Wales, the committee suggested that the establishment of such a body had become indispensable and should no longer be delayed and hoped that the Secretary for the Colonies would introduce a Bill for the purpose as soon as possible.

A similar committee in Victoria reported that they felt most strongly that as there were questions of such vital importance to inter-colonial interest, provision should be made for occasionally convoking a General Assembly for legislating on such questions as might be submitted to it by the Act of any legislature of one of the Australian colonies.²⁾

The subject was not mentioned by the Tasmanian or South Australian Committees nor when the various constitution Bills were before the British Parliament. Consequently Lord John Russell in transmitting the Constitution Acts to New South Wales and Victoria (July 20th., 1855) wrote, "I need scarcely say that the question of introducing into the measures lately before Parliament, clauses to establish a federal union of the Australian colonies for the purposes of common interest, has been very seriously weighed by Her Majesty's Government; but they have been led to the conclusion that the present is not a proper opportunity for such enactment, although they will give the fullest consideration to any proposition which may emanate in concurrence from the respective Legislatures".³⁾

1. Parl. Pap. 1854. XLIV. (1827). p. 18.

2. Ibid. p. 74.

3. Parl. Pap. 1856. XLIII. (2135) p. 17 and p. 46.

There was no lack of advocates of union in the colonies but the British Government wanted a scheme proposed by and acceptable to all the Colonial legislatures before taking any step in the matter. In the New South Wales legislature, Deas-Thomson, Wentworth and Parkes frequently spoke on the subject and resolutions were passed in favour of union.¹⁾ A series of articles on federal union appeared in the Sydney Morning Herald in 1852 from the pen of "John Adams"²⁾ and editorials on the subject were not uncommon. The same year, Dr. Lang published his "Freedom and Independence for the Golden Lands of Australia", but as he advocated a union for the sake of establishing independence, his proposals were not regarded with favour.

In Victoria, the leading exponent was Charles Gavan Duffy, a recent arrival from Ireland, who became a member of the Legislative Assembly, while in Tasmania and South Australia, the respective legislatures discussed the matter and the Launceston Examiner had favourable editorials.

Select Committees, Royal Commissions and Reports kept the federal idea before the Australian Parliaments during the next few years but the movement was confined to a few far-sighted statesmen. It had no popular impetus and made no popular impression though it helped to leaven parliamentary circles and led to many inter-colonial conferences. These conferences produced many federal resolutions but led to no definite scheme or direct results. It seemed impossible to get past the discussion stage and if one colony seemed to advance too far, the others became suspicious and drew back. The opening

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1. See Parkes: Fifty Years in the Making of Australian History. Vol. II. p. 276 and p. 332.
 2. Rev. John West, the author of a history of Tasmania.

of the River Murray to navigation increased the customs complications between New South Wales, Victoria and South Australia and any agreements which were arrived at did not last long owing to jealousy and rivalry. All this time, the problems which were common to all the colonies were increasing in number - mail services, cable communications, lighthouses, alien immigration, defence, to name only a few - and though the advantages of common action were obvious, it could not be achieved. New South Wales was now suspicious of Victoria's motives and the fact that her tariff policy differed from that of the other colonies, was a further obstacle. Moreover, the instability of colonial governments at the time lessened the chances of continuity of policy and so militated against the progress of the movement. The history of the movement as recorded in the proceedings of the colonial legislatures makes exasperating reading. Only occasionally was the British Government concerned with it. In 1855, largely through the efforts of Wentworth who had gone to England, the General Association of the Australian Colonies was formed in London to further Australian interests in whatever ways possible. On June 11th., a meeting was called in order to draw the attention of the Secretary for the Colonies to that part of the report of the Select Committee of the New South Wales Legislative Council (July 28th., 1853) which referred to the necessity for a federal assembly and a memorial of June 28th., asked for information as to his intentions on that subject. Wentworth interviewed Labouchere on the subject and Labouchere who was non-committal, suggested that a sub-committee of the Association should draft a bill for the purpose and forward it with a memorial to the Colonial Office.¹⁾

1. Allin: Early Federation Movement. pp. 301-302.

On March 31st., 1857, the Association sent a memorial to Labouchere stating arguments in favour of a federal assembly and requesting the introduction of a Bill to permit of its establishment. This was supported by the suggestions made for a general assembly by the New South Wales Committee of 1853, an extract from a speech by Deas-Thomson in the Legislative Council on October 20th., 1856, and, an article from the Melbourne Argus of November 4th., 1856.¹⁾ Deas-Thomson said that the time was not far distant when the colonies would adopt a federal arrangement to deal with the tariff; the land system; gold mining; postal communication; railways; telegraphs and lighthouses. The newspaper article dealt with the inconveniences arising from different land and customs policies and added defence to the list of subjects for federal legislation. It advocated an Imperial Act to enable any two colonies to form such a federation which others might join if they wished. The draft Bill which accompanied the memorial provided that any two of the legislatures might depute an equal number of their members to form a convention for the purpose of creating a federal assembly which should have powers to amend its constitution and make laws on the following subjects:- tariffs, lighthouses, gauges of connecting railways, navigation of connecting rivers, telegraphs communicating with any two or more colonies, postage between such colonies, the upset or minimum price of land, management of the gold-fields, a common coinage, weights and measures, general defence, a court of appeal, penal settlements, and upon any other subject which should be lawfully submitted to it by an address from the legislatures of the colonies interested. The time and place of meeting was to be decided by the Governor-General, to whom legislation was to be submitted for assent, subject to the disallowance of the Queen-in-Council.

1. The article referred to was in the Sydney Morning Herald, Oct. 23rd., 1856, not in the Argus as Wentworth stated. See Quick & Garran: Annotated Constitution. p. 93.

The assembly was to appoint its president and fix the amount of its expenses and the salaries of its officers, such expenditure to be proportioned amongst the colonies represented. Provision was also made for colonies to join after its establishment, provided they were¹⁾ not penal colonies.

Merivale replied on behalf of Labouchere on May 16th.,²⁾ . Though realising the inconveniences resulting from lack of joint action, the Government felt that introducing such a measure as proposed would not further the objects of the memorialists. It was not probable that the colonies would consent to entrust such large powers to an assembly so constituted or to be bound by laws imposing taxation. Even if they did consent in the first place, dissension and discontent would probably result. Labouchere did not think such a measure should be introduced, even though it was merely permissive, until there was a reasonable prospect of its working satisfactorily and until he was sure it was founded on just constitutional principles and was acceptable to the colonies. The correspondence was to be forwarded to the governors and meantime much could be done by negotiation between the colonies and by uniform and concerted legislation.

The General Association had no official status and the Secretary for the Colonies would have been foolish to accede to its request. Instead, the Government adopted the much wiser policy of waiting until some of the colonial governments concurred in a request for legislation on this subject. The task of bringing about federation was put upon the Australians themselves and the British Government held firmly to its resolve not to interfere. Meanwhile, in Australia, short-lived inter-colonial agreements came and went. Inter-colonial conferences were held with varying success as the only available method of securing

1. Parl. Pap. 1857. XXVIII. 239. pp. 1-6.
 2. Ibid. pp. 6-7. Bell & Morrell: British Colonial Policy. pp. 173-177.

uniform legislation and concerted administration on subjects of common concern and a certain amount of joint action was thus secured on some subjects, e.g. lighthouses, telegraphs, alien immigration and defence. Their chief bearing on the question of federation was to show how inadequate was this method for dealing with inter-colonial questions.

At an inter-colonial conference which met in Melbourne in March, 1867, to discuss matters connected with the postal service between Great Britain and Australia, Parkes spoke eloquently in favour of federation. He considered that the time had arrived when the colonies should be united by some federal bond. The occasion was important because it would inevitably lead to a more permanent federal understanding and he was sure that the report of the meeting would make a profound impression on British statesmen who would see that for the first time these colonies could unite and that their union was backed¹⁾ by two million souls. Parkes' eloquence got the better of his judgment and his optimistic prophecies were destined to remain unfulfilled. The conference passed a resolution in favour of a fortnightly mail service by way of three different routes - Torres Straits, Suez and Panama - and then resolved that a Federal Council should be established to carry the first resolution into effect. But New south Wales was the only colony that passed a Bill for this purpose and even this failed to receive the Royal Assent. Buckingham (January 5th., 1868) informed the Governor of New South Wales that if the resolutions of the conference had received Imperial assent, or had continued to command the assent of the colonies, or if the Act had provided for the creation of a Federal Council to deal generally with postal communication or any other subject of inter-colonial interest, he would have recommended that it be assented to. But as the powers of the Council were to be confined to a definite scheme to the details

1. Argus. March 18th., 1867.

of which the Government could not agree, he was unable to submit it
 1)
 to the Queen.

An attempt to form a customs union was made at an Inter-colonial Conference held in Melbourne in June and July, 1870, New South Wales, Victoria, South Australia and Tasmania being represented.²⁾ But the delegates could not agree to a uniform tariff and differential duties were prohibited by the constitutions. When in December, 1866, New South Wales had asked that these provisions in the Constitution Acts should be repealed, The Duke of Buckingham (January 5th., 1868), had refused to recommend it but said the Government would gladly agree to the establishment of a customs union with free trade between the colonies and a uniform tariff between them and other countries.³⁾

Granville maintained this attitude in 1869, Kimberley repeated these views (July 15th., 1870)⁴⁾ and enlarged on them again on July 13th., 1871,⁵⁾ and April 19th., 1872.⁶⁾ These documents he left the colonies to ponder but they showed no signs of repentance and from the conference held in Sydney in January and February, 1873, came another memorial urging the removal of the unpopular restrictions.⁷⁾

Kimberley persuaded Gladstone to give way and the Australian Colonies Duties Act, 1873, gave power to the legislatures of the Australian colonies, for the purpose of carrying into effect any agreement with each other, to make laws for the remission or imposition of import duties on articles imported from each other. The colonies thus obtained full statutory power to enter into arrangements for reciprocity but the power was granted too late and was never used.

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1. Quick and Garran: Annotated Constitution. pp.103-104. C.H.B.E. Vol. VII. Pt. I. p. 430.
 2. Parl. Pap. 1872. XLII. (c. 576) pp. 30-36.
 3. Ibid. p. 1. and pp. 11-12.
 4. Ibid. p. 2.
 5. Ibid. pp. 2-5.
 6. Ibid. pp. 6-10.
 7. Parl. Pap. 1873. XLIX. (c.703). p. 17.

The constitutional difficulty was removed but practical difficulties in the way of any customs union remained and nothing short of establishing a federal parliament would overcome them. Had the power been granted some thirty years earlier, the path towards federation might have been smoother. As it was, the gap between New South Wales and Victoria was, if anything, widened after this, for Victoria became more strongly protective in its policy. Failure to secure a customs union or tariff agreement convinced Parkes that federation should be approached in a different way.

A conference of representatives of New South Wales, Victoria and South Australia met in Melbourne in November and December, 1880, to discuss customs arrangements. It adjourned to Sydney in January, 1881, and the six Australian colonies and New Zealand were represented. It was resolved that the time had arrived when a Federal Council should be created to deal with inter-colonial matters; that such Council might be constituted, with limited powers, by Acts of the several Parliaments, each colony having an equal number of representatives; that the control of each colony over its revenue should be preserved intact; and that New South Wales should be requested to prepare the necessary Bill, to be submitted to the Conference at its next meeting. At the Sydney meeting, Parkes brought forward the proposed Bill with the following memorandum:-

"In respect to the Federal Council Bill now submitted, the following positions are assumed as hardly open to debate:-

1. That the time is not come for the construction of a Federal Constitution, with an Australian Federal Parliament.
2. That the time is come when a number of matters of much concern to all the colonies might be dealt with more effectually by some federal authority than by the colonies separately.
3. That an organization which would lead men to think in the

direction of federation, and accustom the public mind to federal ideas, would be the best preparation for the foundation of Federal Government.

The Bill has been prepared to carry out the idea of a mixed body, partly legislative, partly administrative, as the forerunner of a more matured system of Federal Government. Care has been taken throughout to give effective power to the proposed Federal Council within prescribed limits, without impairing the authority of the colonies represented in that body. No attempt has been made to constitute the proposed council on any historical model, but the object has been to meet the circumstances of the present Australian situation, and to pave the way to a complete federal organization¹⁾ hereafter".

The main obstacle to federation was the difference between the fiscal policies of the two leading colonies, New South Wales and Victoria. Victoria was opposed to a uniform tariff unless it was protective. New South Wales was devoted to free-trade and neither colony was willing to entrust the tariff to the decision of a federal legislature. Neither a simple customs union nor a federation involving a customs union was, for the time, attainable, but Parkes believed that a time would come when both these colonies would put the question of federation before the fiscal question and entrust the settlement of the latter problem to their representatives. Meanwhile the fiscal question would have to be left out. Parliamentary union would pave the way for a more complete federation. However the voting on the proposed Bill resulted in an equal division, New South Wales, South Australia and Tasmania in favour, Victoria, Queensland and New Zealand being opposed. Western Australia did not vote. The proposal was therefore abandoned. However it was agreed

1. Quick and Garran: Annotated Constitution. p. 108.

that a Court of Appeal should be established. A Bill was drafted and approved and a resolution passed to the effect that each legislature should send a memorial to the Home Government with a view to getting Imperial legislation on the subject. But there the matter stopped. This is a typical example of how the question of federation was handled during a period of about thirty years. "Up to the year 1883 every proposal for any kind of Federation - complete or partial - had failed altogether. Some small degree of uniform legislation had been attained by conference; some temporary border treaties had been entered into between individual colonies; but no basis had been agreed on for any form of political union. But the events of 1883 helped to draw closer the bonds between the colonies,¹⁾ and to emphasize the need of joint action".

When in July, 1883, Melbourne and Sydney were connected by rail, hopes for a union once more ran high. Victoria was eager for a federation under which the Victorian tariff would be maintained but New South Wales was lukewarm and indifferent so long as Victoria showed no desire to return to her fold. But more important than the completion of the railway connection were the affairs of the Pacific. For a number of years, the eastern colonies, particularly Queensland, had shown an interest in the islands of the Pacific. Conditions in the Pacific had been discussed at the Inter-colonial Conference of 1870. In 1864, France, to the horror of the Australians, began to send convicts to New Caledonia and during succeeding years, a number of them escaped to Australia.²⁾ It was also believed that France intended to annex the New Hebrides and fears were not calmed by the agreement between Great Britain and France (1878) that neither country would annex this territory.³⁾ The lawlessness of the

1. Quick and Garran: Annotated Constitution, p.109.
 2. P.P. 1884. LV. (c.3863). p. 79 & pp.128-129. Ibid (c.3839) pp.20 &
 3. Ibid. (c.3863) p. 19. 29.

relations between the traders and the natives in Fiji had led to the annexation of these islands by Great Britain in 1874. Another source of worry was Samoa in whose affairs the United States Government intervened in 1878, an example soon followed by the German Government. For a number of years, the Australian governments had been urging the annexation of various groups in order to prevent any further expansion by foreign countries but usually they urged more than the British Government was willing to undertake. However, it was made clear to the Australians that their representations would carry much more weight and that they would have more chance of getting what they wanted in the Pacific, if one voice could speak definitely and finally for all the colonies. On July 17th., 1883, the Executive Council of Queensland resolved that the British Government should be invited to move in the direction of providing for a form of federal government suitable for¹⁾ the Australian colonies, but before the despatch conveying this information was received at the Colonial Office, Derby (July 11th., 1883), replying to correspondence in connection with New Guinea, wrote "I trust the time is now not distant when, in respect of such questions, (if not for other purposes of government,) the Australasian Colonies will effectively combine together, and provide the cost of carrying out any policy which after mature consideration they may unite in recommending, and which Her Majesty's Government may think it right²⁾ and expedient to adopt".

An Inter-colonial Convention in which the six Australian colonies, New Zealand, and Fiji were represented, sat in Sydney in November and December, 1883, mainly at the instigation of Service, and discussed chiefly questions which had arisen out of the affairs of the Pacific.

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1. Parl. Pap. 1884. LV. (c3863). pp. 24-26.
 2. Parl. Pap. 1883. XLVII. (c.3691). p. 23.

Derby had suggested a federation of the Colonies into one united whole which would be powerful enough to undertake and carry through tasks for which no one colony was sufficient.¹⁾ Federation therefore,

became closely connected with the desires of the colonies with regard to the Pacific. Service submitted a set of resolutions urging the annexation of, or the establishment of a protectorate over, eastern New Guinea and the Western Pacific Islands from the Equator to the New Hebrides, in order to prevent their acquisition by foreign powers, affirming the willingness of the colonies to bear the cost, and protesting against the French *récidiviste* proposals. The fifth resolution stated "That, in view of the foregoing Resolutions, and of the many subjects of pressing importance on which the Colonies, though of one mind, are unable to obtain united action owing to the absence of some common authority, the time has now arrived for drawing closer the ties which bind the colonies to each other by the establishment of a Federal Union in regard to such matters as this Convention shall specifically determine".²⁾ Service had in mind the establishment of a real federal government but the other delegates were not prepared to go so far.³⁾

Service said "That Confederation can now be effected in all its fullness I do not hope, but that some basis can be agreed upon for a federal union of both a legislative and executive character dealing with those important questions which are immediately pressing, and which will gradually develop into a complete Australian Dominion, I have the greatest hopes. Conferences hitherto have produced a minimum of result. Resolutions have been passed over and over again, but as there existed no common legislative body to give them force,

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1. Moore: The Constitution of the Commonwealth of Australia, pp.30-31.
 2. Parl. Pap. 1884. LV. (c3863). p. 133.
 3. Quick and Garran: Annotated Constitution, p. 111.

the greatest part of them remained a dead letter. A limited federation now would give practical effect to the wishes of the Colonies on those points on which they are agreed. A common danger - the outpouring of the moral filth of Europe into these seas, - a common desire - to save the islands of Australasia from the grasp of strangers - render federal action a necessity, and federal action is only possible by means of a federal union of some sort".¹⁾

Griffith proposed first that a Federal Australasian Council should be created to deal with the marine defences of Australasia, beyond territorial limits; matters affecting the relations between Australasia and the Pacific islands; the prevention of the influx of criminals; the regulation of quarantine and such other matters of general Australasian interest as might be referred to it by the Queen or by any of the Australasian legislatures; and second, that a committee be appointed to report on the best mode of constituting the council and the definition of its functions and authority.²⁾ After discussion, the second part was agreed to and a committee sat under the chairmanship of Dalley.³⁾ A draft Bill was adopted with the following resolution, moved by Griffith:- "That this Convention, recognising that the time has not yet arrived at which a complete Federal Union of the Australasian Colonies can be attained, but considering that there are many matters of general interest with respect to which united action would be advantageous, adopts the accompanying draft Bill for the constitution of a Federal Council, as defining the matters upon which in its opinion such united action is both desirable and practicable at the present time, and as embodying the provisions best adapted to secure that object so far as it is now capable of attainment."⁴⁾ The Bill⁵⁾ provided that the Council should meet at

1. Moore: The Constitution of the Commonwealth of Australia, pp.31-32.

2. Parl. Pap. 1884. LV. (c.3863). p. 134.

3. Ibid. p. 141.

4. Ibid. p. 146.

5. Ibid. pp. 147-149.

least once every two years, each colony being represented by two members, Crown Colonies by one, chosen as the legislatures thought fit. The first meeting was to be held in Hobart, and the Council was to be summoned and prorogued by the Governor of the colony in which it met. At the request of three colonies, a special session could be summoned to deal with special business. All legislation of the council was to be submitted for the Royal Assent to the Governor of the colony in which it was meeting and the necessary expenditure incurred by the Council was to be defrayed by the member colonies in proportion to population. The Act establishing the Council was not to come into operation in any colony until an Act for the purpose was passed by the legislature of that colony. Such legislation was required in at least four colonies before the Federal Council could be established. The following matters were within the legislative authority of the Council, subject to the Queen's prerogative:-

1. Relations of Australasia with the islands of the Pacific.
2. Prevention of the influx of criminals.
3. Fisheries in Australasian waters beyond territorial limits.
4. Service of civil process and enforcement of judgments and of criminal process beyond the limits of the colony in which they were issued, and the extradition of offenders.
5. The custody of offenders on ships of the colonial Governments, beyond territorial limits.
6. Any of the following if referred to the Council by the legislatures of two or more colonies:-

General defences, quarantine, patents, copyright, bills of exchange and promissory notes, weights and measures, recognition, in other states, of marriage and divorce, naturalization, and aliens, status of corporations and joint stock companies and any other matter over which the legislatures had authority, provided that in such cases the Acts

of the Council should apply only to the colonies by which the subjects were referred to the Council.

The governments of the various colonies were to invite their legislatures to pass addresses to the Queen praying for legislation on the lines of the draft Bill. All the colonies except New South Wales and New Zealand did so during July and August, 1884. In New South Wales, the Bill was objected to because it would give the power of over-riding colonial legislatures to "a small, peripatetic, and more¹⁾ or less irresponsible, body of delegates". Imperial legislation was said to be premature and the Bill was characterised as ill-conceived and ineffective. Parkes was one of its severest critics. He was opposed to it because it would impede the way to a sure and solid federation. The idea of federation should be allowed to mature and grow in men's minds, but the Federal Council would only add to strife, increase dissatisfaction with the working of existing institutions, lead to endless complications and finally breakdown entirely. He explained his change of attitude by saying that in advocating the Council, he had not learned that "half a loaf is better than no bread"²⁾ was of ill sound to a nation rapidly approaching its majority.

Derby did not introduce the Bill at once for reasons which he explained in a despatch of December 11th., 1884.³⁾ Judging from criticisms both in Great Britain and in Australia, but especially in New South Wales, he thought there was some fear that the Government intended to introduce a Bill to unite the Colonies, or enable them to unite, in a complete confederation such as that of the Dominion of Canada, under which the existing independent Colonial Constitutions would be (except for certain provincial purposes) effaced by the

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1. Quick and Garran: Annotated Constitution, p. 113.
 2. Parkes: Fifty Years of Australian History, Vol. II. p. 336.
 3. Parl. Pap. 1884-5. LIV. (c.4266). pp. 3-5.

establishment of a single controlling Government and Legislature. The Government would do no such thing unless there was a general desire for it and they would first consult the colonial governments. The Bill to be introduced was that drafted by the Sydney Convention. It seemed generally well-considered and would not diminish the colonies' independent power of internal self-government nor compel unwilling co-operation nor bind colonies which did not wish to be represented. "By this commencement of united action an important step will have been taken towards that completer federation which many desire to see accomplished, and it will have become possible to ascertain, with greater certainty than in any other manner, whether circumstances are likely to be favourable to such federation at an early date, or whether the independent constitutions under which the Colonies now enjoy signal prosperity and good government should be maintained for a prolonged term in their present form".

Derby took advantage of the adjournment of Parliament to suggest some amendments, most of them of an unimportant nature. Legislation with regard to relations with the islands of the Pacific, the influx of criminals and fisheries in extra-territorial waters was either to be reserved for the signification of Her Majesty's pleasure or else submitted for the Government's consideration beforehand, since such matters might affect foreign powers. The Queen-in-Council was to have power to increase the number of representatives from each colony from time to time (Clause 5). A new clause was added providing for the withdrawal of a colony from membership of the Council and giving such a colony power to alter or repeal any Acts of the Council as applying to that colony. "In the case of a complete Federal Union there would be obvious and grave objections to the insertion of any clause to this effect, but as the present limited co-operation is of an experimental nature, and as it may hereafter be found that the proceedings and

expenditure of the Council are connected with subjects not directly concerning some one or more of the colonies, the decision to co-operate should not be irrevocable".

Derby hoped that this new clause (No. 31),¹⁾ would break down the opposition of New South Wales and New Zealand to the Bill but not only did he not succeed in this but he also roused opposition from some of the other colonies as this would mean that if only four colonies agreed to the setting up of the Council, then one could bring it to an end by withdrawal. In the negotiations which followed, Queensland, South Australia, Tasmania and Victoria generally acted in concert. The new clause 31 and the amendment to clause 5 were strongly opposed.²⁾

New Zealand proposed that the legislation of the Federal Council should in each case be subsequently adopted by the Legislature of a Colony before it could become operative therein while New South Wales desired that the Council should not proceed to deal with certain subjects unless the Legislatures of all the Colonies represented in the Council had previously concurred in referring the matters to it.³⁾

A change of Government brought Colonel F. Stanley to the Colonial Office and the only change he made in the Bill as drafted at the Convention was to retain the new clause 31 with the omission of certain words, the result being that a colony had power to withdraw but the Acts of the Council passed while the colony was represented in it were to continue in operation in that colony unless repealed by the Council. Derby introduced the Bill into the House of Lords and it was read the first time on April 16th., 1885. At the second reading, a week later,⁴⁾ Derby explained that the Bill did not deal with Imperial Federation, the

1. Parl. Pap. 1884-5. LIV. (c.4266). p. 8.

2. See Parl. Pap. 1884-5. LIV. (c.4397, c.4398, c.4407, c.4452, c.4481, c.4495)

3. Ibid. (c.4582). p. 4.

4. Hansard. 1885. 297. p. 434.

relations between the Colonies and the Mother Country nor Inter-colonial Federation. It merely provided for a Federal Council and was but an enabling Bill. He did not think the absence of New Zealand would affect the working of the scheme but he regretted the non-co-operation of New South Wales and hoped this colony would join later especially as the measure had been agreed to by one of the houses of its legislature and was defeated by only one vote in the other. The whole scheme was tentative and provisional in that there were large facilities for future change. A weak feature was that no decision involving expenditure could be given effect to without the consent of the Legislature of each colony. This reduced the power of the Council in all cases involving expenditure to that of an advising or recommending body. The Bill gave Federation in a very rudimentary and imperfect form. A federated Australia would have been a new Power in the world but the Colonists did not wish it. "They are the best judges of their own affairs and we must go at their pace, not at ours. It would be madness to reject a plan on which they are agreed, and to tell them to take it back and bring us a better one in its place".¹⁾

Carnarvon stressed the importance of Clause 31, on which depended the whole chance of union between the Australian Colonies. To strike out that Clause would be to postpone, perhaps defeat altogether, the Federation of the Australian colonies which was every year growing closer. He looked forward to the union since it would lead to better relations between the colonies and Great Britain and he would accept this instalment rather than nothing at all.²⁾

Norton favoured the measure as a step to Inter-colonial Federation and approved of the method by which it had been evolved, originating

1. Hansard. 1885. 297. p. 437.
 2. Ibid. pp. 438-441.

as it did in a local Convention, discussed by the Colonial Office and the colonial governments and finally submitted to the Imperial Parliament.¹⁾

Bury said that the Bill was a step in the right direction but without New South Wales it was a leap in the dark. New South Wales and New Zealand were as important to federation as the Prince of Denmark was to the play.²⁾

The Bill passed its third reading on May 1st., and the first reading was taken in the House of Commons on May 7th., the second on July 9th. Mr Healy said the Bill was not likely to improve the state of things in the colonies and the provision for secession might easily lead to civil war.³⁾

In Committee on August 4th., Sir G. Campbell was opposed to giving the Council power to deal with relations with the islands of the Pacific. He blamed the Australian Colonies for causing alienation between Great Britain and Germany and said they would be much better developing their own country without seeking foreign possessions and becoming entangled in foreign complications.⁴⁾ Bryce criticised it as "a very scanty, fragmentary and imperfect sketch of a Federal Constitution".⁵⁾ A federation which offered any member the right to withdraw as soon as its wishes were not gratified, was clearly one of the feeblest and most transitory kind. The real value of this Constitution seemed to him to lie in the provision it made for the introduction of uniform legislation among the Colonies.

Stanley's amendment to the clause which Derby added was agreed to.⁶⁾ The Bill passed its third reading on August 5th., and received

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1. Hansard. 1885. 297. pp. 441-442.
 2. Ibid. p. 443.
 3. Hansard. 1885. 299. p. 222.
 4. Hansard. 1885. 300. pp. 1119-1120.
 5. Ibid. p. 1121.
 6. Ibid. p. 1124.

the Royal Assent on August 14th. (48 and 49 Victoria c. 60)¹⁾.

Adopting Acts were passed in Queensland, Victoria, Tasmania, Western Australia and Fiji and the first session of the Federal Council was held in Hobart in January and February, 1886. The second was held in January, 1888; the third in January, 1889, and from 1891 to 1899, the Council met in alternate years. New South Wales and New Zealand were never represented, while Fiji was represented only at the first session. In December, 1888, South Australia passed an adopting Act but limited its membership to two years.

The twenty years from 1863 to 1883 may be considered as the period of the Inter-colonial Conferences. During that time, ten conferences had been held with a view to securing uniform action in various matters concerning all the colonies and amongst the subjects discussed were postal and telegraphic communications, coastal navigation, defence, Pacific questions, the land system, goldfield regulations, transportation to Western Australia, Chinese immigration, rabbits, co-operation in the service of legal process and enforcement of judgments, the inconvenience of appeals to the Privy Council and hence the need for a Court of Appeals in Australia. These conferences had been valuable in educating opinion amongst politicians as to the need for closer union but they did not succeed in getting much business done. It was difficult to get a place and time for meeting that was suitable to all the colonies. State interests came first and lack of unanimity made it difficult to reach any decisions on the questions discussed, after which there was the further difficulty of getting legislation passed by the various parliaments. The Federal Council was an attempt to remedy these defects. Summoned at regular intervals, it was a legislative body with statutory powers. Its Acts, therefore,

1. Newton: Federal and Unified Constitutions, pp. 295-301.

unlike the resolutions of the conferences, were put into effect. Its weaknesses were obvious. The representatives of the colonies were delegates, nominated not elected, and until 1895, when the number of members was increased,¹⁾ they were always Ministers or government supporters. The Council had no revenue. The grant of financial powers would have involved the establishment of an assembly in which the colonies were represented according to population and expenditure of money would have required an executive. This would have been a form of federal union which the colonies were unwilling to adopt. Its greatest weakness was not inherent, namely, the failure of New South Wales to participate in its deliberations. If New South Wales had joined, there would probably have been more legislation which would, of course, have had a wider scope. Though the provincialists of New South Wales sneered at the Council, they were disquieted at the possibility of its becoming powerful and influential without New South Wales being a member, and they did all they could to prevent this possibility. More importance was attached to the conferences of Premiers and to conferences convened for particular purposes.

The period in the history of Australian federation during which the Federal Council was in existence has been likened to the period of American history between the outbreak of the Revolution and the framing of the Constitution in 1787, when the infant states were loosely compacted by the Articles of Confederation. The Congresses of that period possessed neither common purse nor common sword. The attendance of delegates was voluntary. One or more of the States might decline to carry out the resolutions of Congress; any one might at any time secede from the Confederation. So, too in Australia".²⁾

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1. By an Order-in-Council, Mar. 3rd., 1894, the number of representatives was, at the request of the colonies, increased to five from each colony.
 2. Kirkpatrick: Constitution of the Commonwealth of Australia. The Juridical Review. Vol. 12. 1900. p. 117.

The Council dissolved itself in 1899 in order to assist, or at least not to hinder, the establishment of the Commonwealth. The Times published its obituary some eight years before its decease. "Laudable as was the intention, it was destined from its birth to failure, both for the extent and the limitation of its aims. A body which arrogated any sort of sovereignty over the vast Australian territory ought to have wielded much more precise authority, and to have been invested with much greater responsibility. Its few magnificent prerogatives made an imposing skeleton, without muscles or vitality. Without any fault in its members, it has been politically a nonentity, which necessarily has left no trace upon colonial history, except the circumstance of its extinction and the succession to the few functions it undertook. The merit to which it is entitled is that its brief life, by the demonstration of its own radical deficiencies, enforced the peremptory necessity of something much more complete. Colonial statesmen who criticised it, could not resist in its presence, the cogency of the demand for a real consolidation of scattered elements. Its evident inability to accomplish definite results was an irrefutable argument for its replacement by a serious representative of the concentrated will of Australia".¹⁾ Although in the words of Deakin,²⁾ it remained little more than a debating society, the Council must have done a good deal towards accustoming the people of Australia to the idea of federal legislation.

As a result of the Colonial Conference of 1887, General Edwards was sent out to report on the military defence of Australia. His report (October, 1889) was, in so many words, an argument for federal action, particularly in all matters connected, however remotely, with defence. A common arrangement had been made with regard to naval defence.

1. Times. April, 4th., 1891.
 2. Murdoch; Alfred Deakin, p. 152.

The Conference had, indeed, been the means of impressing on the Australian delegates the advantages of federation, particularly when they heard Canada speaking with one voice while, with regard to Australia, six different voices had to be brought into unison, or at least, harmony. As soon as Edwards' report was published, Parkes suggested a conference of Premiers to consider taking action with regard to its recommendations. Mr Gillies, the Premier of Victoria, pointed out that a conference would be useless since the local Parliaments could not frame the necessary federal legislation. However, the Federal Council could do so on reference from the local Parliaments and he urged Parkes to try to bring New South Wales into the Council. Parkes held that the Council was not capable of dealing with the establishment and control of an Australian Army since it had no executive power, and federation was, therefore, necessary. Gillies thought federation could be achieved in four or five years by means of an enlarged Council but Parkes expected results in a much shorter period.¹⁾ He believed that there was now a popular sentiment in favour of federation and in a speech at Tenterfield, October, 1889, he advocated the establishment of a strong central executive under the control of the Australian people.

At a conference of representatives of seven colonies held in Melbourne in February, 1890, the question of devising and reporting²⁾ on an adequate scheme of federal government was discussed. The weakness of the Federal Council was realised and both Parkes and Griffith stressed the necessity for endowing the federal government with complete legislative and executive powers. The principal debate took place on Parkes' motion - "That, in the opinion of this

1. Parkes: Fifty years in the Making of Australian History. pp.337-352.
 2. Parl. Pap. 1890. XLIX. (c.6025).

Conference, the best interests and the present and future prosperity of the Australian colonies will be promoted by an early union under the Crown; and while fully recognising the valuable services of the members of the Convention of 1883 in founding the Federal Council, it declares its opinion that the seven years which have since elapsed have developed the national life of Australia in population, in wealth, in the discovery of resources, and in self-governing capacity to an extent which justifies the higher act, at all times contemplated, of the union of the colonies, under one legislative and executive Government, on principles just to the several colonies".¹⁾ This was carried unanimously and it was resolved that the members of the Conference should take the necessary steps to induce their respective legislatures to appoint delegates to a National Australasian Convention empowered to consider and report upon an adequate scheme for a federal constitution. The self-governing colonies were to be represented by not more than seven members each and the Crown colonies by not more than four each. Even at this stage, Deakin made an attempt to bring New South Wales and New Zealand into the Federal Council but their representatives thought that such a step would only hinder federation. Most of the representatives realised that the chief obstacle was the tariff question - Service's "lion in the way" - though the optimists made light of it and some said that a federal tariff was not essential.

The colonies passed the necessary resolutions enabling them to be represented at the Convention which met in Sydney on March 2nd., 1891. New Zealand was not very interested except with regard to trade relations and her delegates were instructed not to bind her in any way. The delegates consisted of members of both political parties.

1. Quick and Garran: Annotated Constitution. p. 120. Official Record of Debates of National Australasian Convention, p. 1. Parl. Pap. 1890. XLIX. (c.6025). p. 15.

Parkes was elected President, Griffith, Vice-President.

A general debate took place on a series of resolutions submitted by Parkes in which he enunciated a few essential federal principles and outlined the basis of a federal legislature, executive and judiciary. These resolutions, based on a comparative study of the Constitutions of Canada and the United States, were not intended to express his final convictions but merely to serve as the groundwork for debate and an outline of the required constitution as he then conceived it. The general debate lasted eleven days, after which the Convention considered the resolutions in detail in committee. It was agreed that, in order to establish and secure an enduring foundation for the structure of a Federal Government, the powers of the existing colonies should remain intact except for such surrenders as would be necessary to the power of the National Federal Government; that no new State should be formed by separation from another State or by the junction of two or more States or parts of States, without the consent of the Legislatures of the States concerned and the Federal Parliament; that trade and intercourse between the federated colonies, by land or by sea, should be free; that the power to impose customs and excise duties and to offer bounties should belong exclusively to the Federal Parliament, subject to such disposal of the revenue thus derived as might be agreed upon; that the naval and military forces should be under federal control; that provision should be made in the Federal Constitution to enable the states to make any amendments in their constitutions necessary for the purposes of the Federation. Subject to these and other necessary conditions, the Convention approved of the framing of a Federal Constitution to establish (1) a Parliament consisting of a Senate and a House of Representatives, the former consisting of an equal number of members from each colony, one-third of whom should retire periodically, thus

securing to the body a perpetual existence combined with definite responsibility to the electors; the latter to be elected by districts formed on a population basis and to possess the sole power of originating all Bills appropriating revenue or imposing taxation; (2) a Judiciary, consisting of a Federal Supreme Court, to be a High Court of Appeal for Australia; (3) an Executive, consisting of a Governor-General and such persons as might from time to time be appointed as his advisers.¹⁾

Three committees were then appointed, the first on constitutional machinery and the distribution of functions and powers; the second on provisions relating to finance, taxation and trade regulations; the third, on the establishment of a federal judiciary, its powers and its functions. The second and third were to report to the first committee which should then prepare and submit to the Convention a Bill for the establishment of a federal constitution.²⁾ Between March 19th. and March 31st., the first draft Bill to constitute the Commonwealth of Australia was framed.

The members of the Convention had a variety of material to draw from. There were the Constitution Acts of the various colonies, all based on the constitutional usage of Great Britain, yet all differing from it and from one another in many important respects. In addition, there was their own experience, as practical politicians, of the working of these Constitutions and close familiarity with their merits and defects. Ever since the 50's, there were various debates and reports on the question of federation and much was to be learned from the working of the defective Federal Council while the debates show that most of the delegates had studied other models, particularly the constitutions of the United States, Canada and Switzerland. Many

1. Parl. Pap. 1890-91. LVI. (c.6466) p. liii.
 2. Ibid. p. liv.

of the delegates were lawyers. Chairman of the Judiciary Committee and member of the Constitutional Committee, Clark was "the most learned constitutionalist in the Convention".¹⁾ With Griffith, "the keenest lawyer" in the Convention, he was an admirer of the Constitution of the United States with which he was familiar not only from books but from actual observation. Parkes favoured the Canadian model.

The chief problem that had to be faced was how to reconcile the principles of government by the will of a majority of the people and government by the will of a majority of the states. The attempt to solve this resulted in the proposal for a bi-cameral legislature, one house elected in proportion to population, the other containing an equal number of representatives from each state. Then came the question of the powers of the two houses with regard to money bills. Griffith voiced the view of the small states that every federal law should have the assent of the majority of the people as well as the majority of the states. Therefore the Senate should have absolute power of veto, not only by the power of rejecting whole measures, including money bills, but also by the power of amending and veto-ing in detail. The view of the large states (New South Wales and Victoria) was that absolute duality of powers was impossible and that the House of Representatives must predominate. There might be nominal equality in general legislation but, following the usage which gave effective supremacy to the House of Commons in Great Britain, the power of the purse and the control of the Executive should be secured to the House of Representatives. Bills which the Senate might not amend could be returned to the House of Representatives with a request for a fair amendment. With regard to another vexed point, the fiscal question, the Federal Parliament should be given full powers of raising money

1. Wise: The Commonwealth of Australia, p. 165.

and on the adoption of a uniform tariff, trade between the colonies would be free. Until then, the existing tariffs were to remain in force; but after that the power to impose customs and excise duties would be vested exclusively in the Federal Parliament, the States retaining concurrent powers of raising money by every other mode of taxation.

The draft was submitted to the Convention and discussed in committee. Some amendments were made and the Bill was adopted on April 9th. It was also agreed to recommend that the parliaments of the colonies should arrange to submit the Bill for the approval of the people of the colonies at a plebiscite on the principle of one man one ¹⁾ vote. The Convention also recommended that as soon as the constitution had been adopted by three colonies, the British Government should be asked to take the necessary action to establish the constitution in respect of those colonies. ²⁾ The Bill ³⁾ itself consisted of a few clauses providing for the establishment of the Commonwealth, the constitution being attached as a schedule, the whole to be submitted to the British Parliament for enactment when the necessary conditions had ⁴⁾ been fulfilled. The subjects for federal legislation ⁴⁾ were much the same as today though a few have been added in later drafts, e.g. insurance, invalid and old age pensions, industrial arbitration, acquisition and construction of railways. With regard to the Federal Supreme Court, ⁵⁾ it was provided that the Federal Parliament might abolish, in part or in whole, the right of appeal from state courts to the privy Council. The judgments of the Federal Supreme Court were to be final, provided that the Sovereign might in any case in which the

1. Parl. Pap. 1890-91. LVI. (c.6466) p. 391.

2. Ibid.

3. Ibid. pp. cxxviii - cxlii.

4. Ibid. pp. cxxxiv - cxxxv.

5. Ibid. pp. cxxxvii - cxxxviii.

public interests of the Commonwealth or of any State or of any other part of the Sovereign's dominions were concerned, grant leave to appeal to the Privy Council. In spite of amendments, this draft contains the substance of the present constitution of the Commonwealth of Australia.

"The framing of that Bill marks an epoch in the history of the movement. In those few days, Federation came down from the clouds to the earth; it changed from a dream to a tangible reality"¹⁾. There was still keen and protracted dispute as to many of the details and even many of the principles, but with their definition the era of vague generalities ended and the era of close criticism began. The draft was practical and complete in essentials though less precise and elaborate than the final constitution, and it brought home to the people the full meaning of federation. "The Convention caught and crystallized into a definite shape, the vague, floating ideas which had long been in the air, and it thus afforded for the first time a practical standpoint from which to debate the whole subject and upon which to found a national sentiment. In a word, it changed federation from an idea to a formula, from a dream to a policy"²⁾.

With the close of the Convention, it was thought that the Commonwealth of Australia would soon be an accomplished fact, and even the cautious Times thought it "very possible that in the distant future of the British Empire and the English-speaking race there will be few more famous dates than ... the ninth of April, 1891,"³⁾ - the day on which the draft Constitution was adopted by the Convention. It was intended that the Bill should be discussed by the Australian parliaments, then referred to another convention to harmonise suggested amendments and finally submitted in some way for acceptance

1. Quick and Garran: Annotated Constitution, p. 129.
 2. Garran: The Coming Commonwealth, p. 116.
 3. Times. April 10th., 1891.

or rejection by each colony. But various circumstances combined to delay further progress. In October, 1891, Parkes went out of office in New South Wales and his successor, Dibbs, was not a federalist. Reid, whom Parkes called "the arch-plotter against federation",¹⁾ attacked the Bill because of the clauses relating to the powers of the Senate over revenue, taxation and expenditure and for the omission of responsible government as a necessary part of the constitution. As a supporter of free-trade, he likened the request to New South Wales to join a Federation of protectionists to asking a teetotaler to live with five drunkards. In view of the approaching dissolution of the assembly and the general elections, Parliament turned its attention to legislation calculated to make a stronger appeal to the electorates. The new Assembly contained a larger Labour element which demanded more domestic legislation and supported a Government which placed Federation only third in its programme. As usual, the other states were not prepared to go far without New South Wales. After much discussion and many proposed amendments, the Victorian Parliament passed a general resolution in favour of the Bill, as did the South Australian Parliament also, after a leisurely debate. In Tasmania, it was shelved by the Legislative Council pending action by the other states. New Zealand and Western Australia showed little interest and Queensland was waiting for New South Wales. It was not till May, 1893, that the New South Wales Parliament, without enthusiasm approved of the Bill.

Barton followed Parkes as the leader of the Federation movement in New South Wales but in March, 1892, Parkes suggested a popularly elected convention to revise the Constitution. It seemed from the manner in which the Parliaments had treated the Bill as if the impetus of the Sydney Convention was lost. But the draft Bill had been a

1. Parkes: Fifty Years of Australian History, Vol. II. p. 373.

great educating influence and had aroused popular interest, discussion and criticism so that the word "Federation" came to have a definite and practical meaning. Then the financial and commercial troubles of the early 90's emphasised the weakness and folly of dis-union. The collapse of the land-boom, the financial panic and the commercial depression showed plainly that the prosperity of each colony was bound up with that of the others. This realisation helped to break down the spirit of isolation and mutual jealousy which prosperity had fostered. Stagnation of trade made the people look for the causes and then the folly of inter-colonial trade barriers became more and more apparent. Moreover, the strikes of the preceding years had shown both employers and employé^s the advantages that would result from federation. When Federation began to appeal to the pocket as well as to the heart, the movement gained wider support.¹⁾ That wide-spread organisation, the Australian Natives' Association, helped to foster the Federal spirit, and at a conference held at Corowa (July 31st. - August 1st., 1893), Quick formulated a new procedure. He proposed that the legislatures of all the Australasian colonies should pass an Act providing for the election of representatives to attend a statutory convention or Congress to consider and adopt a Bill to establish a Federal Constitution for Australia, such Bill, when adopted, to be submitted by some process of referendum to the verdict of each colony. Quick framed an "Australian Federal Congress Bill" which became the basis of the Enabling Acts which were afterwards passed in all the colonies. His suggestion was that each colony should elect, on its parliamentary franchise, ten representatives to a Federal Congress which should frame a Federal Constitution. Then on a stated day, this Constitution should

1. Times. August 2nd., 1893. Letters from Australia. XV. - Federation.

be referred to the electors for acceptance or rejection and, if accepted by majorities in two or more colonies, it should be forwarded to the British Parliament to be enacted. Thus the whole process of founding the Commonwealth was to be mapped out in advance by Act of Parliament. The popular phase of the movement was well on the way and Federation Leagues sprang up all over the country, particularly in those districts on both sides of the Murray. "Impatience of delay, and the demand for a share of direct popular initiative and control in the work of constitution-making, were the keynotes of the new

1) movement". It was not intended to supersede the Constitution Bill already drafted nor the work of the Sydney Convention but to complete the work. That Bill was intended to be considered further before adoption and the Convention had already foreshadowed the need for another convention and a final referendum. Quick's proposal made provision for these steps, merely substituting a popularly elected convention for one chosen by the parliaments.

Reid, who became Premier of New South Wales in August, 1894, took up the scheme not through any real enthusiasm for it but through fear, it was said, of the popularity gained by Barton as its leader in New South Wales. At the Premiers' Conference held in Hobart in January, 1895, Reid's motion, "That this Conference regards federation as the great and pressing question of Australia politics", was carried and it was resolved that a Convention of ten representatives from each colony, chosen directly by the electors, should frame a Federal Constitution which should be submitted to the electors for acceptance or rejection by a direct vote. If accepted in three or more colonies, it was to be transmitted to the Queen with an address from the Parliaments of those colonies praying for the necessary legislative enactment. A Bill was to be prepared and submitted to the Parliaments

of each colony to give effect to the foregoing resolutions and Turner and Kingston were asked to prepare a draft Bill for the consideration¹⁾ of the Conference. The draft Bill provided that the Convention, after framing a draft Constitution, should adjourn for a period of from 30 to 60 days, then re-assemble, reconsider the Constitution with any amendments that might be proposed and finally adopt it with such amendments as might be agreed to. This scheme secured popular interest and at the same time left it to the parliaments to initiate the scheme and criticise the Constitution. It also avoided the delays that held up the 1891 Constitution.

The Enabling Act was passed by South Australia and New South Wales in December, 1895, a minimum vote of 50,000 (later increased to 80,000) in favour of the Constitution being stipulated in the latter state. Tasmania followed in January, 1896, and Victoria in March, the minimum number of affirmative votes required for the Constitution being placed at 6,000 and 50,000 respectively. In Western Australia, the Bill was passed in October with this difference that the representatives were to be chosen by Parliament and the Constitution was to be submitted to the people only if Parliament approved of it. The minimum number of affirmative votes required was 6,000. In Queensland, the northern and central districts were opposed to the southern district and supported the federal movement in the hope that federation would lead to a subdivision of the state and that their interests would thus no longer be sacrificed by the policy of governments supported by the more influential southern district. The southern district, on the other hand, feared that under federal free-trade, its trade and commerce would suffer from competition with New South Wales.

1. Times. Feb. 1st., 1895.

As a result, the Bill was shelved and Queensland was not represented at the 1897 Convention in spite of the efforts of the Premiers of the other states to secure her representation. In November, 1896, a People's Federal Convention held at Bathurst studied the 1891 Constitution and thereby did much to educate the people and remove misunderstandings and suspicions.

The Convention met in Adelaide in March, 1897, under the presidency of Kingston, Barton being elected Leader of the Convention. As before, the chief difficulty was that which faces every federation - how to reconcile the wishes of the large states with those of the smaller states. After a general debate lasting a week, three committees were appointed, the first on constitutional machinery and the distribution of functions and powers; the second on finance, taxation, railways and trade regulations; the third on the Federal Judiciary. The second and third were to report to the first which was to prepare a Constitution Bill and submit it to the Convention.

The Constitution Bill, which was drafted by Barton, Downer and O'Connor, and which was based on the 1891 Constitution, was submitted to the Convention on April 12th., and adopted ten days later. The Convention then adjourned while the Bill was considered by the Parliaments. Once more, the line of cleavage between the large and the small states was marked and, in addition, there was the opposition of the conservative and liberal elements to each other, as manifested by the criticisms of the Legislative Councils and Assemblies respectively, so that, even in the larger states, the Councils favoured a strong Senate. Criticism, generally, was keen in New South Wales but more moderate in the other states. The Convention re-assembled in Sydney in September to consider the 286 amendments suggested by the Parliaments. After three weeks spent mainly in discussing finance, deadlocks, representation in the Senate and the powers of the Senate with regard

to money bills, the Convention adjourned. The final session took place in Melbourne, January - March, 1898, when the whole Bill was thoroughly reconsidered and revised. The finance committee introduced the famous "Braddon Clause", and consent was given to the provisions regarding deadlocks and appeals. The Bill was adopted on March 16th., and the Convention ended the following day.

The measure was still strongly opposed in New South Wales. Objection was taken to equality of representation in the Senate, the powers of the Senate, the rigidity of the Constitution, and the financial arrangements which would place a heavy burden on New South Wales in order to assist Tasmania and Western Australia. There was also the fear that Sydney might lose its commercial pre-eminence to Melbourne and the desire for the federal capital to be in New South Wales, or, at least, not Melbourne.

The first referendum, held in June, 1898, resulted in favourable majorities in New South Wales, Victoria, Tasmania and South Australia, but the number of affirmative votes in New South Wales fell short of the 80,000 required by the Act and though the other three states could have gone ahead with federation, they refused to do so without New South Wales. Reid wanted another conference but South Australia, Western Australia and Tasmania refused while Victoria asked what amendments New South Wales desired. After the General Election in New South Wales in July which proved favourable to the advocates of federation, the New South Wales Parliament stated the amendments it required. A conference of Premiers was held in Melbourne in January, 1899, the six states being represented and a compromise was reached. These amendments concerned the provisions with regard to deadlocks, the limitation of the Braddon Clause, financial assistance to necessitous states, amendment of the constitution, the territorial rights of Queensland and the position of the federal capital.

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A new Enabling Bill was passed in four of the states and Queensland followed their example. Western Australia was still negotiating for better terms. The second referendum (June, 1899), resulted in increased majorities in favour of the Bill. The referendum in Queensland (September) showed a majority in favour. During August, the Parliaments of all the states except Western Australia adopted addresses to the Queen praying that the Constitution¹⁾ should be passed into law by the British Government.

Meanwhile, Western Australia did not wish to lose the advantages to be gained by entering the Federation as an original state but she wished to enter under her own terms. The Premiers' Conference of 1899 agreed to amendments to satisfy New South Wales but Forrest failed to get similar treatment for Western Australia. The success of the referendum in the other states induced the Parliament of Western Australia to consider the Bill and a Joint Select Committee proposed four amendments which should be submitted to the people together with the Bill which had been accepted by the other colonies. The amendments were - (1) that the colony should be enabled to divide itself into electorates for the election of representatives in the Senate; (2) that the Federal Parliament should be empowered to authorize the construction of a railway connecting Western Australia with South Australia; (3) that for five years after the adoption of the federal tariff, Western Australia should be allowed to impose her customs duties on inter-colonial and other imports; (4) that Western Australia should be exempt for five years from the jurisdiction of the Inter-state²⁾ Commission. The Government appeared to be attempting to prevent Western Australia from joining the federation and they were unwilling to submit the Bill to a referendum. This attitude caused strenuous

1. Parl. Pap. 1900. LV. (Cd. 124). pp. 18-23.

2. Quick and Garran: Annotated Constitution, p. 226.

opposition from the Goldfields where the cry went up of "Separation for Federation" and a situation developed which was likened to the 1) Witlander problem in South Africa. As a result of another Premiers' Conference (1900), Forrest decided not to press for the first three amendments.

At Chamberlain's request, each state appointed a delegate to be present in England while the Bill was being considered by the British Parliament and, although no referendum had yet been taken in Western Australia, a delegate was appointed to represent that state. New Zealand had taken no further part in the federation movement since 1891 but its Government appointed the Agent-General, Pember Reeves, to act on its behalf. The five states which had accepted the Bill were represented by Barton, Deakin, Dickson, Kingston and Fysh, respectively, Barton being the spokesman of the delegation.

On March 15th., the delegates conferred with Chamberlain and the Crown Law Officers. Several objections were raised to parts of the Bill and considerable skill and tact was required to meet the situation. The Constitution had been prepared by the Governments of Australia and by representatives of the people specially chosen for the purpose and it had been approved by the people. Now it was being presented to the British Government to be enacted in the form in which it was approved. The Delegates were unwilling to accept amendments in case the amended Bill should have to be submitted again to the people and a further delay ensue. As Professor Kirkpatrick put it, the function of the 2) Home Government was to be almost solely maieutic. The situation was embarrassing. The delegation arrived in London during the Boer War and the Government did not wish to insist on amendments that would make it appear ungrateful for the assistance the colonies were giving in the war. There were a great number of people in Great Britain who were

1. Parl. Pap. 1900. LV. (Cd. 158).
 2. The Juridical Review, Vol. 12. 1900. p. 118.

looking to the federation of the Australian colonies as a step to Imperial Federation and if the Government presented the Bill as it was, it would be accused of weakening instead of strengthening the ties of Empire. The criticism of political opponents had to be taken into account.

As was the case with Canada in 1867 and has been the case since, the chief bone of contention was the attempts to restrict the right of appeal to the Privy Council. The visible ties of Empire were gradually becoming fewer and the British Government wished to retain those that were still left. The administration of justice on its Imperial side was regarded as one of the strongest of the unifying forces of the Empire and the 1891 Constitution was criticised on this point. The Times¹⁾ said that the Australians would be misguided if they consented to surrender any tie to the United Kingdom, whether through the Judicial Committee or otherwise, which they had found by experience able to do some part of their work better than they could do it themselves.

Objection was taken to Clause 74 which was as follows:- "No appeal shall be permitted to the Queen in Council in any matter involving the interpretation of this Constitution or of the Constitution of a State, unless the public interests of some part of Her Majesty's Dominions, other than the Commonwealth or a State, are involved.

Except as provided in this section, this Constitution shall not impair any right which the Queen may be pleased to exercise, by virtue of her Royal Prerogative, to grant special leave of appeal from the High Court to Her Majesty in Council. But the Parliament may make laws limiting the matters in which such leave may be asked." 2)

1. April 4th., 1891.

2. For the evolution of this clause, see Parl. Pap. 1900. LV. (Cd. 158) pp. 1-4. Punch (April 25th. 1900) represented Australia as a young woman holding a latch key which typified Clause 74 and saying "If you please, Mother, I wanted a little more freedom, so I've had this latch-key made. You don't mind?" To this Britannia replied, "I'm sure, my dear, if anybody can be trusted with it, you can".

When the Australian Premiers were in England for the Colonial Conference of 1897, Chamberlain had criticised this clause in the Adelaide draft and had sent Reid a memorandum containing the criticism of the Crown Law Officers, (July 17th., 1897). It was suggested then that the clause should be amended so as to maintain the right of appeal to the Queen from any court from which there was no appeal to the High Court, and to allow appeals from the High Court when leave was given either by that Court or by the Queen in Council. The reasons for maintaining the appeal were given by the privy Council in 1871 when the question had been raised by the Australian Colonies. The appellate jurisdiction of Her Majesty in Council was part of Her Majesty's prerogative which was exercised for the benefit of the colonies and served as a link between the Colonies and the Crown. It secured to every subject the right to claim redress from the Throne; it provided a remedy in certain cases not falling within the jurisdiction of ordinary courts; it removed causes from the influence of local prepossessions; it tended to maintain uniformity of law, and it gave access to the highest judicial authority and legal capacity. The controlling power of the highest Court of Appeal was influential even when not resorted to, because every judge knew that his proceedings might be made the subject of appeal to it. Similar arguments were given in the case of Canada in 1875 and an additional one was now added, namely that the existence of the appeal to the Queen in Council inspired English investors with confidence.

The amendment proposed that there should be no appeal from the High Court as of right, but that the Queen in Council should have the right to give leave to appeal. This was practically what existed in Canada. The result would be that leave would be given only in cases when an important question of principle was to be tried or where there was some reason to suppose, or it was alleged that local prepossessions

had influenced the decision and it was desirable to remove any feeling of injustice. If there were cases in which no appeal lay to the High Court, it was desirable to preserve the prerogative of the Queen in Council to grant leave to appeal in a proper case. Such leave is only¹⁾ given when otherwise there would appear to be a miscarriage of justice. This had lead to several modifications but the Law Officers were not yet satisfied.

Other clauses objected to were (1) Covering Clause V. - "This Act, and all laws made by the Parliament of the Commonwealth under the Constitution, shall be binding on the Courts, Judges, and people of every State, and every part of the Commonwealth, notwithstanding anything in the laws of any State; and the laws of the Commonwealth shall be in force on all British ships, the Queen's ships of war excepted, whose first port of clearance and whose port of destination are in the Commonwealth"; (2) Clause 51, section XXIX, by which the Parliament would have power to legislate on "external affairs"; (3) Clause 51, section XXXVIII. - "The exercise within the Commonwealth, at the request or with the concurrence of the Parliaments of all the States directly concerned, of any power which can at the establishment of this Constitution be exercised only by the Parliament of the United Kingdom or by the Federal Council of Australasia."

It was held that these clauses would seriously impair the prerogative of the Crown and the powers and privileges of the Imperial²⁾ Parliament. The Law Officers suggested five amendments. They proposed to modify the effect of clause 74 by inserting in Covering Clause V. a declaration that nothing in the Act or the Constitution should affect any prerogative of the Crown to grant special leave to appeal to the Queen in Council.

In Covering Clause II., they proposed to omit the words "This Act shall bind the Crown", as involving unnecessary interference with the

1. Parl. Pap. 1900. LV. (Cd. 188). pp. 3-4.

2. Parl. Pap. 1900. LV. (Cd. 158). pp. 19-20.

Royal Prerogative.

In Covering Clause V., they wished to omit the provision that the laws of the Commonwealth should be in force on British ships whose terminal ports were in the Commonwealth as being too wide and involving a possible conflict of jurisdiction. All necessary powers of legislation with regard to the coasting trade would be given if the section declared that the Commonwealth laws were Colonial Laws within the meaning of the Colonial Laws Validity Act, 1865.

Instead of appending the Constitution to Covering Clause IX, it was to be placed as a schedule to the Act.

The five delegates replied in a memorandum dated March 23rd.¹⁾ They first made it clear that in stating their objections to the proposed amendments they were not in anyway acquiescing in the suggestion that any amendment was necessary. The Bill as it stood was what the people wanted and what the Premiers had instructed the delegates to ask for. The addition to Covering Clause V., would entirely change the meaning of Clause 74. If the Australians were fit to make a constitution for themselves, they were fit also to say what it meant, and should, therefore, be allowed to rely on the decisions of their own High Court. "Judicial knowledge of local conditions, invaluable always, is indispensable in the interpretation of Constitutions"²⁾

The Judges' impartiality would not be prejudiced by their domicile. The clauses referring to appeals were the most keenly discussed of the whole Constitution, not only in the Convention, but by the press, the public and the legislatures as well, so they could be regarded as the carefully considered wishes of the people. The concluding sentence of Clause 74, giving the Federal Parliament power

1. Parl. Pap. 1900. LV. (Cd. 158), pp. 13-18.

2. Ibid. P. 16.

to limit the right of appeal, only conferred on the Commonwealth a right to do what each state could do, subject to the reservation of the Bill as affecting the prerogative. The delegates referred to the Instructions to Australian Governors, July, 1892, Clause VIII., paragraph 7, to show that the framers of the Instructions considered that the colonies had full legislative powers in matters affecting the prerogative, subject to reservation for the Royal Assent. The last sentence of Clause 7⁴, therefore, seemed only to confer on the Commonwealth a legislative power long possessed by each of the States. They referred to the attitude of the British Government to the Federal Council Bill in 1885 and to Bryce's criticisms of that Bill. The Government had submitted that Bill as it stood in spite of the justice of those criticisms. Now they wished to amend a Bill which had been so framed that those criticisms could not possibly be made against it. A third referendum would cause delay and expense and would be resented by the electors as reflecting on their previous judgment. They asked the Government to consider whether the clause was of such a nature as to justify alarm or whether it was worth risking serious dissatisfaction in Australia for the sake of preserving the small degree of prerogative affected.

Just about this time, Haldane in an address to the Scots Law Society made a suggestion which attracted a good deal of notice and which was regarded with favour by the Imperial Government and Crown Law Officers. Referring to the confidence felt in the Judicial Committee of the Privy Council by all parts of the Empire, he regretted the Australian proposals to restrict the right of appeal and hoped they would not become law. This could "only be averted by making our Australasian Colonies feel that we offer them the finest Court of

Ultimate Appeal that the Empire can produce, and by giving
 1) them a part to play in its constitution." He proposed that the
 Judicial Committee of the Privy Council and that of the House of Lords
 should no longer remain separate. In recent years, three judges from
 the colonies had been members of the former. They might be made life
 peers and sit in the House of Lords. By the fusion of these two
 committees a strong Imperial Tribunal would be formed. It would form
 a strong link in the binding together of the Empire, for the Colonies,
 the groups of which would send representatives to it, would naturally
 feel it to be in part their own possession. It would be a real step
 towards the only kind of Imperial Federation which seemed possible,
 that brought about naturally and without artificial pressure. It would
 introduce a new type of member into the House of Lords and might form
 2) the nucleus of a non-party element.

The Government replied to the delegates with a memorandum on
 March 29th., containing a statement of the objections to some of the
 provisions in the Bill.
 3) A distinction was made between the Covering
 Clauses and the Constitution. It was only the latter which had been
 approved by the people in the referendum and which the Addresses from
 the Parliaments prayed might be made law. Two statements of Barton
 were quoted to show that the Covering Clauses were not part of the
 agreement between the Australian Colonies as to the Constitution but
 rather suggestions as to the terms of the agreement between the
 Colonies and Mother Country which might be amended by the Imperial
 Parliament. These clauses affected the prerogative of the Crown,
 the powers and privileges of the Imperial Parliament and the Legislatures
 of other parts of the Empire. The Government and Parliament had

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1. The Juridical Review. Vol. 12. 1900. pp. 9-10
 2. Ibid. pp. 7-8.
 3. Parl. Pap. 1900. LV. (Cd. 158) pp. 22-28.

responsibilities as trustees for the whole Empire and they could not relieve themselves of that responsibility by divesting themselves of their powers by delegation - a principle which the framers of the Bill must have recognised when they placed the provisions affecting those powers in the form of suggestions. The alterations suggested were limited to what was considered essential for the protection of the interests of the Empire.

The Government wished the laws of the Commonwealth to be considered as Colonial Laws within the meaning of the Colonial Laws Validity Act 1865 so that no laws could be passed which were inconsistent with Imperial legislation. Since the responsibility to foreign Powers for Australian legislation rested not on Australia but on the Government of the United Kingdom, there must be no doubt as to the paramount authority of Imperial legislation. With regard to the application of the laws of the Commonwealth to British ships, the Commonwealth would have full power under section 736 of The Merchant Shipping Act, 1894, to control the Australian coastal trade.

One objection to Clause 74 was the difficulty of deciding to what cases it would apply. Questions might arise as to whether legislation under certain sections of Clause 51¹⁾ was or was not *ultra vires* and any such legislation might involve matters affecting subjects of foreign countries yet there would be no right of appeal from the High Court to the Privy Council. Since the Constitution embodied a request to the Imperial Parliament to delegate to the Commonwealth Parliament certain powers exerciseable only by the Imperial Parliament or by the Crown and not included in the powers of an ordinary colonial Parliament, it was not reasonable to wish to preclude an appeal to an Imperial Court on such matters. There was, too, no definition of the class of cases

1. e.g. Sections I, IX, X, XIX, XX, XXVI, XXX, XXVII and XXXVIII.

involving the public interests of some other part of the Empire other than the Commonwealth or a State.

It was not clear whether litigants had the right of appeal from the Supreme Courts of the States to the Privy Council or only to the High Court. Unless this point were settled, confusion and uncertainty would result. Clause 74 was so difficult to construe that it could not be passed without modification or some over-riding clause in the Bill to control its operation. It seemed to have originated to some extent in objections to the constitution and working of the Judicial Committee of the Privy Council, though the administration of justice by that tribunal had, on the whole, commanded the confidence of the Empire. The moment was inopportune to curtail its jurisdiction as proposals were being considered for giving the greater colonies and effective representation on the Committee/for amalgamating it with the Judicial Committee of the House of Lords, thereby constituting a Court of Appeal for the whole Empire. Clause 74 proposed to withdraw from the Queen-in-Council matters involving the interpretation of the Constitution - the very type of question on which the Queen-in-Council had been able to render most valuable service. These should be the last to be with-drawn as they often involved a good deal of local feeling. The Memorandum gave examples of situations which might arise through legislation affecting other parts of the Empire and foreign countries and maintained the necessity for the right to appeal to the Privy Council on such questions.

The restriction of the right of appeal might prevent the investment of outside capital in Australia owing to the fear of diminished security.¹⁾

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1. Four Banks: The Bank of N.S.W., The Commercial Banking Company of Sydney, The City Bank of Sydney and the Savings Bank - had petitioned the Imperial Parliament for the retention of the existing right of appeal. (Ed. 153). pp. 21-22 and 61-62.

The Government wished the right of appeal from Australia to be as unrestricted as it was in the Canadian constitution. The Australian Constitution did not affect Australian interests alone. The Imperial Court of Appeal would have full knowledge of local conditions relevant to any case before it as they would have been explained in the Judgments of the Australian Court while in exceptional cases, even if party feeling ran high on the question in dispute, the Tribunal could not possibly be charged with being under its influence.

"The retention of the prerogative to allow an appeal to Her Majesty-in-Council would accomplish the great desire of Her Majesty's subjects both in England and Australia, that the bonds which now unite them may be strengthened rather than severed, and, by insuring uniform interpretation of the law throughout the Empire, facilitate that unity of action for the common interests which will lead to a real Federation of the Empire.

The object of every one at present should be to draw closer together all parts of the Empire. The existence of the right of appeal, subject to the leave of the Privy Council, has been a link effectively binding together every part of Her Majesty's dominions: the weakening of this tie would seriously lessen the value of even so great and beneficent a result as the Federation of Australia.

If the Bill were passed in its present form, while it would mark a step in advance as far as the Federation of Australia is concerned it would be a retrograde measure so far as it effects the larger question of Imperial Federation¹⁾".

On March 30th., Reeves, the New Zealand Agent-General, put before the Colonial Secretary three amendments desired by his Government.²⁾

1. Parl. Pap. 1900. LV. (Cd. 158). pp. 27-28.
 2. Ibid. pp. 30-31.

First, New Zealand should be allowed to preserve the right of joining the Commonwealth as an original State. While the Australian States were not unanimous about Federation, and especially while New South Wales, the largest and most influential, hung back, New Zealand did not wish to join the proposed Federation. But now that all the States seemed likely to federate, New Zealand wished to have the right to join them as an original State if ever she felt so disposed.

The second amendment was that, while New Zealand remained outside the Federation, litigants in her higher courts, though reserving the right to appeal to the Privy Council, should have, as an alternative, the right to appeal to the High Court of Australia.

The third amendment was that the Commonwealth and New Zealand might be empowered to make the necessary arrangements for joint naval and military action, including operations outside their own boundaries, forming for the purpose a homogeneous Australasian force.

On the same date, Parker, the representative of the Western Australian Government, asked for an amendment to Clause 95 by which that State was permitted to impose a progressively diminishing tariff for five years after the Federal tariff came into force. A Select Committee of the Legislature reported that this would cause inconvenience and injury to trade and recommended that the Clause be altered so that the Western Australian tariff might be retained¹⁾ without reduction for the period mentioned.

A conference was held at the Colonial Office on April 5th. Chamberlain presided and there were also present the Under-Secretary (Lord Selborne), the Attorney-General, the Solicitor-General, Parliamentary Counsel, the official Delegates and the representatives

1. Parl. Pap. 1900. LV. (Cd. 158), pp. 31-32.

of Western Australia and New Zealand. Parker and Reeves explained the amendments desired by their Governments and departed. The rest of the conference is not reported but the delegates seem to have understood that the amendments relating to the Colonial Laws Validity Act and British ships would be abandoned.¹⁾

Chamberlain at once sent a telegram to the Australian Governors with regard to the conference.²⁾ He disclaimed all desire to interfere in exclusively Australian interests but was sure the Australian ministers would give full weight to the Government's suggestions when urged on behalf of the interests of the United Kingdom or as trustees of the Empire. The Government was unwilling to delay federation by pressing its amendments so that Clause 74 was practically the only matter at issue. Chamberlain then summarised the Government's objections to this clause: (1) The term "public interest" was vague and would lead to increased litigation, (2) A most important link of Empire would be weakened and diversity would spring up where uniformity was most desirable, (3) It was in the interests of Australia that the final decision in important questions as to the boundaries between the powers of the Commonwealth and of the States should lie with the highest tribunal of the Empire which was beyond bias or predilection. (4) Important questions as to the operation of Commonwealth laws on British shipping and as to whether such laws were ultra vires could hardly be allowed to be concluded by the High Court. (5) Commonwealth laws on such subjects as fisheries might affect the interests of other parts of the Empire. Appeal to an Imperial Court was, therefore, essential. (6) Banks and other commercial institutions having large interests in Australia were opposed to the limitation of appeal and had petitioned against it.

1. Quick & Garran: Annotated Constitution, p. 235.
 2. Parl. Pap. 1900. LV. (Cd. 158) pp. 47-48.

(7) The actual restriction and the power claimed to make further restriction equivalent to practical abolition were specially inopportune when the Government were considering reforms in connection with appeals. If Australian appeals were withdrawn, the proposed new Court would be deprived of part of its value as a sphere of co-operation between the Colonies and the mother country.

For these reasons, the Government felt it necessary to press for amendment and Chamberlain hoped that the instructions of the delegates would be enlarged to enable them to discuss amendments in the speediest and most satisfactory method possible. Chamberlain also asked Barton if the delegates would agree to an amendment to Section 121 to give effect to Western Australia's request for admission on the terms already mentioned but Barton replied that the delegates considered that states could not be admitted on conditions subversive of
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intercolonial free trade.

The only other amendment was to declare that the Colonial Laws Validity Act 1865 applied to the laws of the Commonwealth.

Meanwhile numerous petitions were being received by the Colonial Office, some from the Goldfields and other parts of Western Australia, praying for inclusion in the Commonwealth, others from various organisations in other States protesting against the curtailment of the right of appeal. The latter were most welcome to Chamberlain in his duel with the delegates. On the other hand one may read in Murdoch's life of Deakin of the tactics employed by Barton, Deakin and Kingston to put the official Australian case before members of Parliament and other influential men. Through the efforts of Chamberlain, the delegates were honoured guests at a great number of banquets and other gatherings and on all occasions, official or

un-official, they lost no opportunity for advocating the enactment of the Bill unamended.¹⁾

On April 16th, Chamberlain cabled to Australia asking that the delegates might be authorized to consult with the Imperial Government as to the best means of effecting the necessary alterations with a view to avoiding another referendum,²⁾ and the next day he asked for the opinion of the Australian Governments on New Zealand's request for admission to the Commonwealth as an original State any time within seven years, if she so desired.³⁾ With regard to this, Reeves was informed that the Australian Premiers could not agree to such an amendment and they considered that the Bill already made adequate provision for the admission of New Zealand.⁴⁾ New Zealand's activities at this advanced stage constituted a distraction which both the Colonial Office and the Australian delegates could very well have done without. After holding aloof since 1891, New Zealand was in a far different position from those colonies which had approved of the Bill/^{by} referendum, a circumstance which was probably not fully realised in England and which probably gave the impression that the Australian colonies were not as united in their attitude as they should have been.

As a result of the Premier's Conference (April 19th-21st) it was pointed out that by the Enabling Acts, the framing of the Constitution was expressly entrusted to the Convention of Representatives specially elected by the people for the purpose in all colonies except Queensland and Western Australia, and the final acceptance or rejection of the Constitution was also remitted to the people. The question of appeals had been considered in Adelaide and no appeal to

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1. Murdoch: Alfred Deakin, pp. 200-202.
 2. Parl. Pap. 1900. LV. (Cd. 158), p. 57.
 3. Ibid. pp. 57-58.
 4. Ibid. p. 73.

the Privy Council was allowed but at the request of the Secretary for the Colonies, it was reconsidered in Melbourne and this decision was reversed. Later, it was discussed again and the present compromise was reached. Moreover, at the Premiers' Conference prior to the last referendum, it was considered again and no change was made. The Bill was adopted by the vote of a large majority and therefore belonged in a very special sense to the people of Australia whose only mandate to the Governments and Parliaments was to seek its enactment by the Imperial Parliament in the form in which it was adopted by the people.

The Premiers believed that Clause 74 would not work injuriously to any part of the Empire although the proposed new Court of Appeal for the Empire would doubtless be attractive. Of the alternatives, amendment and postponement, the latter was more objectionable. Without disputing the constitutional power of the Imperial Parliament to amend the Bill on its own responsibility, the Premiers urged that the voice of the Australian people given on the Bill as it stood should receive the favourable consideration which such a weighty referendum demanded. The Premiers did not consider themselves authorised to accept any amendments and they hoped that Western Australia, whose representatives had helped to frame the Bill and, in the Convention, almost unanimously agreed to Clause 95, would accept¹⁾ it as it stood.

The Memorandum of the official Delegates of April 27th,²⁾ was meant to correct any impression that the Premiers invited the Imperial Government to amend the Bill. The instructions of the Delegates remained unaltered. The tone of this Memorandum was firm and the writers dealt with the arguments of the Colonial Office Memorandum

1. Pal. Pap. 1900. LV. (Cd. 158). pp. 59-60.
 2. Ibid. pp. 65-71.

of March 29th. They emphasised the fact that the Bill was Australian in a double sense - in origin and by the deliberate endorsement of the Parliaments and people. Any amendment not both absolutely essential and incapable of achievement by any other means and at any other time was to be deprecated as destroying the character of the measure and re-opening numerous issues happily and conclusively settled. The Preamble stated that the people had agreed to federate "under the Constitution hereby established" and the proposed amendment would at once vitiate the agreement and render this solemn declaration a violation of the facts.

In the Enabling Acts and in the Addresses, the "Constitution" meant the whole Bill, the Acts having given the Convention the duty of framing a Federal Constitution "in the form of a Bill for enactment by the Imperial Parliament." There were ways of amending the Covering Clauses without changing the meaning of the Constitution itself but the proposed amendment to Clause 74 was not of this character. It had never been admitted that such an alteration would preserve the intercolonial compact. Amendment of this clause would encourage the opponents of the Bill to renew their agitation. A fresh referendum would lead to expense, delay and vexation, and, if there were no referendum, the Bill would no longer contain the compact accepted by the people.

The disadvantages of the existing system of appeals were delay, expense and want of judicial knowledge of Australian laws and conditions. As then constituted, the Court could not be defended. When Australia had formulated a scheme which satisfied Australian requirements, it was unfair to delay its adoption pending consideration of a measure, not yet proposed, which might or might not be satisfactory.

They did not think Clause 74 derogated from the rights of other

parts of the Empire, nor, if it technically appeared to do so, that its operation would injure other parts of the Empire. The clause expressly preserved the rights, "the public interests," of every part of the Empire outside the Commonwealth. If the words, "public interests," had no technical meaning, they must be construed in their ordinary commonsense signification, which was quite definite.

As to the final interpretation in Australia of the Australian Constitution, the capacity and integrity of the Australian judges could not be disputed. The principles of interpreting statutes were so well understood that there was no likelihood of lack of uniformity, while uniformity of decision as to Constitutions of different design, e.g. the Canadian Constitution, was as unattainable as undesirable. Judicial knowledge of local conditions was essential to true interpretation.

As for the effect of this clause on the unity of the Empire and unity of action leading to a real Federation of the Empire, the delegates thought that unity of action and uniform interpretation of the law were wholly unrelated. "The consciousness of kinship, the consciousness of a common blood, and a common sense of duty, the pride of their race and history, these are the links of Empire, bands which attach, not bands which chafe. When the Australian fights for the Empire, he is inspired by these sentiments, but no patriotism was¹⁾ ever inspired or sustained by any thought of the Privy Council."

The proposed amendments, even through a Covering Clause, would be distasteful and harassing. "If they accepted the Constitution with such an amendment, it would be because they were made to choose²⁾ between the bowl of intervention and the dagger of delay."

1. Parl. Pap. 1900. LV. (Cd. 153). p. 70.
2. Ibid. p. 71.

They concluded by urging the acceptance of the Bill. The Premiers had made it clear that Clause 7¹ had been repeatedly considered and ratified by Conventions, Premiers and people; that the electoral adoption of the Bill was a mandate to Executives and Legislatures to seek its enactment in the form in which it then stood; that acceptance of alterations by the Premiers would be unauthorised and improper and they declined to authorize the Delegates to do what they could not rightly do themselves. "This request implies no questioning of the trusteeship of Her Majesty's Government, or of the wisdom of Parliament, or of its sovereign power; but often it has been the truest wisdom of sovereignty to abstain from the exercise of its power, or so to exercise it as only to win the gratitude of those who are subject to its authority."¹⁾

This document was not signed by Dickson. He had been in communication with the Premier of Queensland urging submission and was strongly influenced by Griffith, now Chief Justice of Queensland, who, formerly in favour of abolishing appeals to the Privy Council, had now entirely reversed his opinion. The Governor, Lord Lamington, had also intervened in opposition to the Bill as it stood. Consequently,²⁾ Dickson was forced to withdraw from the official delegation and in a separate letter, informed Chamberlain that he had declined to sign the official memorandum because he wished to see the Bill passed without delay and full appeal to the Privy Council maintained. In this he believed himself to be voicing the desire of all loyal subjects in Australia, certainly in Queensland.³⁾

The final Memorandum of the Imperial Government (May 4th)⁴⁾ did not go into detail. It refuted the contention that the referendum on the Bill was an unqualified and considered ratification

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1. Parl. Pap. 1900. LV. (Cd. 158). p. 71.
 2. Murdoch: op.cit. p. 200.
 3. Parl. Pap. 1900. LV. (Cd. 158). pp. 79-80.
 4. Ibid. p. 76.

of every detail of the Constitution and that no detail could be altered without contravening the decision of the electors. The Government could not believe there was such delay and expense connected with appeals to the Privy Council as was suggested and they were not aware of any patent evils due to want of knowledge of Australian laws and conditions. The proposed amendments were not due to distrust of the people of Australia but solely to the desire of the Government that, in a matter affecting the whole Empire, the Bill should be passed in a form which was best alike for Australia and for every other part of the Empire.

The four delegates forwarded their reply on May 8th.¹⁾ They agreed that further discussion would be useless but maintained that the proposed amendment to Clause 74 was not a detail but a vital the question. They understood that the amendment in regard to Colonial Laws Validity Act had been abandoned and held that such an act should not apply to great self-governing communities like Canada and Australia whose statutory authority should be subordinate only to that of the Imperial Parliament. They hoped that the Government would be willing to provide by separate legislation for this and every other matter which they considered essential and pass the Bill without amendment as desired by the Peoples, Parliaments and Governments of Australia.

On May 14th, Chamberlain introduced the Bill into the House of Commons. A few changes had been made in the draft. The Constitution was set forth as a Schedule to the Act, provision was made for admitting Western Australia as an original State; an addition was made to Covering Clause V. to permit the Queen to use her prerogative to grant special leave of appeal from the High Court or the Supreme

1. Parl. Pap. 1900. LV. (Cd. 153). pp 34.

Court of any State to the Queen in Council and one to Covering Clause VI providing that the laws of the Commonwealth should be laws within the meaning of the Colonial Laws Validity Act, 1865.

Chamberlain spoke for nearly two hours. He outlined the history of the federation movement in Australia, compared the proposed Constitution with those of Canada and the United States and gave a brief résumé of the Bill. He asked the House to accept everything that dealt exclusively with the interests of Australia, but reminded the members that wherever the Bill touched the interests of the Empire as a whole, or the interests of the Queen's subjects or possessions outside Australia, the Imperial Parliament occupied a position of trust. Amendments had been asked for by Western Australia and New Zealand but they were entirely an Australian question and though the Government was sympathetic, it would not press the claims of these two colonies. There was only one point of importance on which he thought amendment necessary although there were others which might be subject to debate or opposition. The Government proposed to make it clear that the Colonial Laws Validity Act applied to the Commonwealth. The Delegates thought this unnecessary but since it involved Great Britain's foreign relations, the Government considered it important and wanted no doubt to exist on the question.

The question of the right of appeal was most important. "We have got to a point in our relations with our self-governing colonies" said Chamberlain, "in which I think we recognise, once for all, that these relations depend entirely on their free will and absolute consent. The links between us and them at the present time are very slender. Almost a touch might snap them. But, slender as they are,.... still if they are felt irksome by any one of our great colonies, we shall not attempt to force them to wear them. One of these ancient links

is precisely this right of appeal by every subject of Her Majesty to the Queen-in-Council."¹⁾ In weakening that link, the Bill opened up a prospect of causes of friction and irritation between the colonies and Great Britain which would probably be more numerous and serious than anything that would be likely to result if the right of appeal were retained. Yielding would be injurious to the interests of Australia and endanger the unity of the Empire. He thought that Australian opinion was not yet definitely formed on the subject and, before giving way, the Government had to be sure that there was a definite demand of the whole force of Australian opinion. As it stood, the clause would take away the right of appeal from a State where the State Constitution was in question and give the power to limit further the right of appeal, making it almost impossible for Her Majesty, in reference to this subject, to exercise the right of veto which is inherent in the prerogative. Chamberlain then repeated the arguments he had given to Reid in 1897. He continued that the Constitution was to be an Imperial Act, in substance delegating powers to an authority created by the Imperial Parliament. Therefore, in questions regarding the interpretation of the powers of the clause by which this authority is delegated, the Imperial power which made the delegation should be represented in the Court which gives the decision.

Again he pointed out that the fact that the term "public interests", being undefined, would increase litigation. Then too, as it stood, the clause would lead to confusion of appeals and probably conflict between the High Court and the Judicial Committee of the Privy Council, two co-equal courts giving perhaps, diverse decisions on matters of the greatest importance. Responsibility for the effects

1. Hansard. 1900. 83. p. 62.

of legislation regarding the Pacific islands, maritime jurisdiction, foreign enlistments and external affairs rested with Great Britain; therefore, some control over this legislation should be retained to say whether the Commonwealth Parliament had exceeded its powers or not.

He did not agree with the official Delegates that the Premiers' reply did not enlarge their instructions nor that the referendum precluded the Imperial Parliament from amending the Bill. In fact, he had information from some of the Governments that they expected amendments. The delegate, the Government and the people of Queensland urged the retention of the full right of appeal. There was not such unanimity in Australia as to justify sacrificing the interests of the Empire and the clause had been approved by only a small number of the members of the Convention. Chamberlain then quoted opinions which he had gathered from Queensland, Western Australia and New Zealand - rather an unfortunate choice of colonies since they were the very ones which had taken the smallest and least enthusiastic part in the federal movement. These opinions he supported with the views of the seven Chief Justices of Australasia, with resolutions of the Chambers of Commerce of Sydney, Adelaide and Brisbane and with newspaper opinion generally.¹⁾

The leader of the Opposition, Campbell-Bannerman, made an obvious criticism. He censured the Government for proposing amendments at such an advanced stage when they could have been suggested some years before. Conventions and conferences held in Australia had been fully reported so that the Australian proposals were not unknown, yet apart from the Memorandum of 1897, the Government had done nothing

1. Hansard. 1900. 83. pp. 46-76. Chamberlain's speech is also printed in Keith: British Colonial Policy, Vol. II. pp. 337-381. and Commonwealth of Australia Constitution Bill. Reprint of Debates in Parliament ... and other papers. pp. 7-22.

until the Bill arrived in England. He also criticised Chamberlain for going behind the appointed representatives of the people to get information by such methods as inviting the Governors to pick up gossip and forward it to him. Campbell-Bannerman thought the Australians were best fitted to interpret their own Constitution and he could see no danger in allowing them to do so, If the Bill were amended,¹⁾ he thought another referendum would be necessary.

Faber, supporting the Government, said that the electors were probably not aware of the existence of Clause 74 when they voted in the referendum, therefore, Parliament was quite justified in amending it.²⁾ This argument, of course, could apply to the whole Bill which could therefore be amended in every clause.

Dilke supported Campbell-Bannerman and especially criticised Chamberlain for allowing the Governor of Queensland (Lord Lamington) to express his personal opinion on the subject. The question of amendment, he said, was not technical or legal but moral and political. He quoted Lord Derby's remark with regard to the Federal Council Bill, 1885, that it came with this special recommendation that it was a scheme which the Australian community had devised for itself and was therefore of peculiar sanctity. This applied with much greater force to the Commonwealth Bill.³⁾

Haldane advocated passing Clause 74 without amendment and establishing a new court of appeal. The Government should make the Australian people understand that they were not pressing on them what they did not desire but were trying to save for Imperial purposes only a limited right of appeal. As it stood, the clause would leave sufficient appeal to the Privy Council to preserve the existence of that Court.⁴⁾

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1. Hansard. 1900. 83. pp. 76-80.
 2. Ibid. pp. 80-86.
 3. Ibid. pp. 86-95.
 4. Ibid. pp. 97-102.

Now that the Bill was before Parliament and the Government seemed bent on amendment, the delegates felt that the most they could do was to negotiate for compromise. Publication of the correspondence between the Government and the delegates had increased public interest and, while approving of the Government's desire to protect Imperial interests, the press was largely sympathetic towards the delegates. More interviews with Chamberlain and the Law Officers took place. As Chamberlain had repudiated any pretension to meddle with the control of Australian affairs, so the delegates repudiated any pretension to claim sovereign decision on matters touching inter-Imperial relations or foreign policy. The question was whether the operation of Clause 74 might not be confined to distinctly Australian affairs. A new draft was made providing that on constitutional questions as to the limits of Federal and State powers inter se, the decision of the High Court was to be final unless the Governments concerned consented to an appeal to the Privy Council. Believing that such consent would rarely or never be given, the delegates felt that they had got what they wanted and agreed. But the new arrangement was strongly disapproved in Australia where the restriction of appeals was never really popular when the meaning of Clause 74 was understood. Participation in the South African War had strengthened Imperialism and the conservative and wealthy classes and the legal profession had supported Chamberlain's amendment. Now the Imperial Government was accused of failing in its duty to the Empire in giving way to the delegates whose recall was demanded. The weak point in the compromise was the introduction of the Executive into the judicial sphere and the Queensland Government stated that the Bill would have to be submitted to the Parliament of Queensland again before they could accept it. South Australia, Tasmania and Western Australia spoke in a similar strain. Just when it seemed as if the

Bill would be withdrawn, it was suggested, probably by Griffith, that permission to appeal should be given not by the Governments concerned but by the High Court itself. This suggestion was accepted and the Bill saved.¹⁾

Chamberlain moved the second reading of the Bill on May 21st. The definition of the word "colony" was omitted from Covering Clause VI, as being the best way to remove doubts as to the application of the Colonial Laws Validity Act. With regard to appeals, Chamberlain re-affirmed the principle of not interfering with purely Australian concerns but where interests of the Queen's subjects or possessions outside Australia or relations with foreign countries were concerned, the Government claimed that the existing right of appeal should in no way be lessened or affected. Clause 74 had proposed to limit the right of appeal in cases in which other than Australian interests were exclusively concerned. The limiting words used in that clause seemed to indicate that the framers of the Constitution recognised a distinction between Australian and extra-Australian matters but the phrase "public interest" was ambiguous. It was uncertain whether these words would apply, for example, to the private interests of investors or of any body of the Queen's possessions, so that a large class of British subjects would be precluded from their full right of appeal. The question of foreign relations, too might have been excluded from all possibility of appeal. The Delegates had pointed out that the power to limit the right of appeal was inherent in the Parliaments of all the Australian colonies, subject to the reservation for the Royal Assent of Bills exercising such power. This power was to be given to the Commonwealth Parliament on the same condition.

1. Murdoch: Alfred Deakin, pp. 202-204. Garvin: Life of J. Chamberlain, Vol. III. pp. 565-566. According to the Melbourne correspondent of the Times, this amendment was first suggested in a leading article in the Argus, June 4th, 1900. See The Times June 5th and 25th, 1900.

At this stage, Clause 74 would allow no appeal on purely Australian questions except by the consent of the Executive Government or Governments concerned. Queensland and Western Australia were still in favour of unrestricted appeal,¹⁾ The speakers, who included Asquith, Bryce and the Irish members, Redmond and Healy, all expressed gratification at what seemed to be the solution of the difficulty that had arisen between the Colonial Office and the Delegates. Bryce, while admitting that a knowledge of local conditions enabled a Court to interpret a Constitution much more satisfactorily, still thought that a full right of appeal to the Privy Council should be maintained because that body could never be even suspected of political bias or prejudice.²⁾

A storm of criticism and disapproval arose in Australia and the Delegates were blamed for what was considered a very undesirable amendment. The Argus said it was highly unsatisfactory to give the Governors, when advised by their Ministers, power in constitutional cases to decide whether an appeal should be allowed or not from the Australian High Court to the Privy Council. Never before in the history of any constitutional country had a Ministry, supported by a Parliamentary majority, received authority to interfere in judicial matters, deciding whether or not appeals should be allowed in particular cases. Under the compromise arranged by Chamberlain and the delegates, the State Executive could deprive a suitor of the right of appeal to the Privy Council. This paper condemned the imposition of political restraint upon judicial appeals.³⁾

Similar criticism also came from other influential quarters for example, Turner, the Premier of Victoria, and Griffith and Way, Chief

1. Hansard. 1900. 83. pp. 757-766.

2. Ibid. pp. 784-792.

3. Times. May 24th, 1900.

Justices of Queensland and South Australia respectively. Protests demanded that Clause 74 should either remain unamended as it had been approved by the Convention or else omitted altogether so that the right of appeal should be unrestricted. The interference of the Executive in the judicial sphere was condemned as a principle unknown in the British or any colonial Constitution.

An editorial in the Argus suggested that the High Court itself should be empowered to give consent to appeals to the Privy Council.¹⁾ Turner took up this proposal and gained the support of the rest of the Premiers but Chamberlain, in consultation with the delegates, had already decided to adopt this proposal and Clause 74 was once again recast.

The Bill was considered in Committee on June 18th. Chamberlain described the amendment as an arrangement rather than a compromise, since neither the Australians nor the British Government were giving up anything to which they attached importance. The Government desired only that the right of appeal should be maintained in all cases in which other than Australian interests were concerned, while the Australians desired that certain constitutional questions which might arise as to the limits inter se of the powers of the States and of the Federal Parliament should be finally decided by the High Court.

The amendment previously proposed was objected to by most of the colonies on two grounds. First, it would limit the right of appeal from State Courts more than was done by the original Bill. There was some difference of opinion as to whether under the original Bill it was open to litigants, even where constitutional questions involving the powers of the States were concerned, to appeal at their option to the Privy Council or to the High Court.

1. Times. June 5th, 1900.

The second objection was to the introduction of the Executive into judicial questions. These objections were considered and, with the help of Griffith, the proposed agreement was arrived at, by which the right of appeal should be restricted only in the case of a constitutional question as to the powers inter se between the States or the States and the Federal Government and arising in the High Court. With regard to appeal, leave of the Court was required¹⁾ instead of leave of the Government.

Haldane was of the opinion that if the proposed Imperial Court of Appeal had been established the question of limiting appeals from Australia would never have arisen. The amendment was objectionable as affecting Imperial interests and the scope and power of the Privy Council since there was no provision for appeal on a number of questions of Imperial importance. The amendment gave away more than the²⁾ delegates ever asked for.

Sir William Anson pointed out that the cases likely to come before the High Court would be concerned with the distribution of power between the Federal Government and the States and would, therefore, be to a certain extent political issues. The appointment of High Court judges rested with the Federal Executive and there was no limit to the number constituting the High Court. It was conceivable that, when some great political issue was at stake, the members of the Court would be gradually increased or diminished according to the wish of the Executive, so that a particular decision might be arrived at. This was an argument for retaining the right of appeal to the Privy Council in constitutional cases for the good³⁾ of the Australian people.

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1. Hansard. 1900. 84. pp. 333-340.
 2. Ibid. pp. 341-348.
 3. Ibid. pp. 356-359.

In deference to the wishes of the members, further discussion was postponed in order to allow time for the arrival of Australian opinion on the amendment. When the discussion was resumed on June 21st, Chamberlain was able to inform the members that messages of approval had been received from all the governments except those of New South Wales and Western Australia. In New South Wales, the altered clause was to be submitted to the Parliament. The Government had secured precisely the same powers and rights of appeal as existed with regard to Canada with the trifling exception, which Chamberlain regarded as an improvement, that in certain rare cases leave to appeal was to be granted by the High Court and not by the Privy Council. Where leave was granted by the latter, two applications and two sets of costs were necessary.¹⁾ The Australian system would, therefore, be less expensive.

The amendment was agreed to and reference to the Colonial Laws Validity Act and the definition of "colony" were omitted from Covering Clause VI. Covering Clause IX was restored so that the Constitution was appended to this clause instead of forming a schedule to the Act. In the Constitution itself, the original last paragraph of Clause 73 was restored to its former position instead of being numbered as Clause 74 and the new Clause 74 was inserted according to arrangement,

Commenting on the speed with which the Bill passed through the Committee stage, the Times²⁾ said "This Bill ... passed through Committee in the House of Commons yesterday with less criticism than is often spent upon some scheme for regulating the water supply of a third-rate municipality at home. The explanation of this anomaly is simple. The mother of Parliaments takes a pride in applying the principles to which she has owed her own greatness to the communities

1. Hansard. 1900. 84. pp. 639-642.
 2. June 22nd, 1900.

in the Pacific which are her children. It is not merely because she recognises in their handiwork a monument of legislative sagacity that she adopts the scheme they have elaborated absolutely without change so far as it effects their exclusively domestic concerns But Ministers and Parliament and the British people behind them all feel that, whatever may be their legal rights, they are not competent by constitutional usage to interfere in the local self-government of the States they have founded on the other side of the globe. So long as that self-government is exercised without grave and manifest injury to the Empire as a whole and without infringement of the rights of other portions of the Queen's dominions or of their inhabitants, it is absolute and inviolable in the eyes of the English nation. With these reservations, those upon whom it has been conferred may use it or abuse it to their own profit or to their own hurt, without intervention by the Imperial Parliament."

The Bill was read the third time in the House of Commons on June 25th and passed. The following day it was read for the first time in the House of Lords and on June 29th., the Under Secretary for the Colonies (The Earl of Selborne) moved its second reading. Lord Carrington criticised Chamberlain's clumsiness in negotiating with the delegates and his surrender in the matter of appeals. In its original form, Clause 74 was an example of Home Rule in its best, simplest and fairest form and should never have been altered. Chamberlain's efforts had almost resulted in postponing federation indefinitely.¹⁾ Other speakers were in favour of the Bill but some regret was expressed that constitutional questions were not subject freely to appeal to the Privy Council in order that the Australian High Court judges might not be even suspected of political bias and that the question of appeal had been left to be settled after the Bill

1. Hansard. 1900. 35. pp. 17-24.

had been approved by the Australian people.

The Bill was taken in Committee on July 3rd. and passed through without amendment and was finally passed on July 5th.¹⁾ The Royal assent was received on July 9th.²⁾

Meanwhile, the goldfields agitation and the persuasions of Chamberlain and the Australian premiers were taking effect in Western Australia. Chamberlain's telegram of April 27th urged Western Australia to join the Commonwealth as an original state otherwise she would not be able to obtain such good conditions later.³⁾ Forrest therefore submitted to Parliament an Enabling Bill which was passed and which received the Royal Assent on June 13th. The referendum was taken on July 31st and resulted in a large majority in favour of the Bill (44,800 to 19,691; a majority of 25,109). The Constitution had been thoroughly discussed both in Australia and Great Britain and had by this time received the Royal Assent, so this vote may be regarded as the result of careful consideration and reflection.

The Queen's Proclamation, issued at Balmoral on September 17th, fixed January 1st, 1901, as the date on which the Commonwealth should come into being. Lord Hopetoun, Governor of Victoria from 1889 to 1895, was appointed Governor General and the Queen consented to allow her grandson, the Duke of York, to visit Australia to open the first Commonwealth Parliament, an action which was appreciated by the Australian people as a fitting climax to the federation movement and which helped to strengthen still further the ties, both personal and political, between them and the mother country.

Thus another period in the history of the Australian colonies came to a close. Today the Commonwealth seems perfectly obvious

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1. Hansard. 1900. 35. pp. 577-591.
 2. The Act is 63 & 64 Victoria C.12 - An Act to constitute the Commonwealth of Australia.
 3. Parl. Pap. 1900. LV. (Cd. 158). pp. 71-72.

and we almost wonder that its establishment was so long delayed but the wonder really is that union was ever effected at all. The delay arose from the nature of the origin of the colonies and their consequent development. Small settlements were scattered over a very wide area and intercourse between them was not easy. Consequently, they developed along more or less independent lines and their outlook was inevitably marked by provincialism. The independent development of their own provincial resources occupied the attention of colonists and excluded from consideration the idea of co-operation for the harmonious development of the continent as a whole. Yet rarely has any group of states been so obviously and naturally marked out for political union. There was practically no diversity of nationality. There were religious differences but little sectarian strife. The population was large enough and increasing quickly enough to warrant the colonies taking their stand amongst the nations of the world. In 1900, the population of Australia was almost equal to that of Canada at the time of the formation of the Dominion and to that of the United States at the time of their foundation. These six states whose boundaries were co-terminous were the sole occupants of a continent. There were no deep divergences in their life and occupations; they had the same problems to face in connection with the land, mining, commerce and other affairs. The outstanding point of difference was that one state had adopted a policy of free-trade while the rest favoured protection.

The extraordinary slowness in the growth of the federal movement may be accounted for by the absence of any urgent external force tending to drive the colonies into a union for their own protection, as was the case, for example, with the formation of the Dominion of Canada. The nearest approach to such a force was the expansion of foreign countries in the islands of the Pacific, which threatened

Australian interests there. This absence of external danger favoured the growth of that rivalry and bitterness which is common to most small neighbouring countries. In this case it was increased by the concentration of population into a few large capitals and manifested itself, for example, in the ridiculous diversity of the colonial railway systems.

Except for the tariff question, the subjects calling for federal action were such as attracted little popular attention, but the need for union was apparent to those responsible for the administration of affairs, though the average member of parliament was apathetic. Some people thought federation was premature; others doubted if it would be an advantage, while those in favour of it differed as to the method of accomplishing it. There were those who feared federation would lead to separation from Great Britain, while others hoped for it as a step towards Imperial Federation.

The doctrine of "Australia for the Australians" began to modify the rivalry between the colonies and common action became possible in the defence and immigration policies and this common action suggested its extension to fiscal questions. The rise of the Labour Party in Australian politics was at first a retarding factor because this party was intent on social reforms. But the similarity of the aims of the party in the different colonies showed them that what they could not accomplish in state politics might be possible under federation.

So the education of the people in federalism was a long and arduous process because there was so little that really and effectively brought home to them the need for union. To the very end, compromise was necessary to induce the colonies to combine and the Constitution displays the result of its protracted birth. It is a federal constitution and "a federal government exists in any political

community where the powers of government are divided between two authorities - a central authority extending to the whole territory and population, and a number of particular authorities limited to particular areas and persons and things therein - each of which is equipped for its own purposes without recourse to the other and which are so far independent of each other that neither can destroy the other or impair its powers or encroach upon its sphere.¹⁾"

Professor Harrison Moore asks "Why did the Australian colonies prefer a federal to an incorporate union, the division to the concentration of power?" He answers the question by saying "Where several states, independent of each other, come together to form a new political community, there is, in the absence of any imperative force, a strong bias against complete self-surrender and absorption. The constituent states are likely not only to preserve their own identity, but to reserve the general powers of government and will commit to the new federal authority specific powers only."²⁾

Continuing, he points out that there was no imperative external pressure; the questions of the Pacific and of a White Australia had not then assumed the importance which later events and a wider outlook have given them. Union was therefore a governmental convenience rather than a necessity, designed for the attainment of certain obvious and practical purposes, more apparent to men of political experience than to the multitude. Therefore it was natural to build on existing foundations, to leave things unchanged except so

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1. Moore: The Political Systems of Australia, in Atkinson: Australia, Economic and Political Studies. p. 58.
 2. Ibid.

far as change was necessary to secure the practical ends in view. ¹⁾

The enactment of the Commonwealth Constitution was, according to the Times, ²⁾ the largest step taken during the recent history of the Empire towards its consolidation. The change, though not affecting local liberties, would raise the Australian colonies in the scale of constitutional dignity. "If the question of federation had been raised in a practical form some thirty or forty years ago, there would have been a strong party, both at home and in the colonies, which would have maintained that the only hope for true and manly development lay in the severing of the Imperial tie and the concession of absolute independence ... Ties are stronger now, when the colonies no longer feel either that they are governed by clerks in Downing Street, or that they are disregarded by world-weary politicians who would like to see them 'cut the painter'."

A French view of the occasion is interesting. An article in the Temps of July 11th congratulated Great Britain on her liberalism and said "A great nation is thus born ... By granting thus to her dependencies the plenitude of their autonomy, the United Kingdom maintains the moral unity of the British Empire, and shows that it has learned the lesson of the war of American independence." ³⁾ But the following prophecy contained in the article would have found little acceptance in Australia in 1900 and would find a great deal less today

1. Atkinson (ed): op.cit. pp. 59-60. Cf. Garran: The Making & Working of the Constitution, p. 26 - "Federalism is a compromise, to reconcile the desire of a group of States to retain their independence with their desire to unite together. It is suitable where both desires are strong."
Keith: Imperial Unity and the Dominions, p. 413 - "The essential characteristic of any federal system springs from the fact that a federation must be a compromise: it is a form of government which preserves multiplicity in unity, which admits that union is strength, but which insists that individuality must not be swamped." Also Newton: Federal and Unified Constitutions. pp. 1-6.
2. July 10th, 1900.
3. The Times. July 12th, 1900.

"Faithful to that decentralising liberalism which has made her strength, England ratifies the creation of a new body of nations which sooner or later will not be content with a position of vassaldom and subordination, even with complete autonomy, but will claim its right to absolute independence."

BIBLIOGRAPHY.

I. Hansard.

Parliamentary Papers.

Official Year Book of the Commonwealth of Australia.

Official Report of the National Australasian Convention Debates, Sydney, March 2nd to April 9th, 1891.

Commonwealth of Australia Constitution Bill. - Reprint of the Debates in Parliament, the official correspondence with the Australian Delegates, and other Papers. (Wyman and Sons).

Adam, M.I., Ewing, J., and Munro, J.: Guide to the Principal Parliamentary Papers relating to the Dominions. 1812-1911.

II. The Annual Register.

Canadian Historical Review.

Contemporary Review.

Edinburgh Review.

Imperial Federation.

Journal of the Society of Comparative Legislation.

Juridical Review.

National Review.

Nineteenth Century.

Political Science Quarterly.

Proceedings of the Royal Colonial Institute.

Quarterly Review.

The Round Table

Spectator.

The Times.

Westminster Review.

III. Adderley, C.B.: Relations of England with the Colonies (A Letter to Disraeli). 1861.
 Review of "The Colonial Policy of Lord John Russell's Administration" by Earl Grey. 1853.
 Some Reflections on the Speech of Lord John Russell on Colonial Policy. 1850.

- Allin, C.D.: A History of the Tariff Relations of the Australian Colonies.
The Early Federation Movement of Australia.
- Atkinson, M. (Editor): Australia, Economic and Political Studies.
- Battye, J.S.: History of Western Australia.
- Bell, K.N. and Morrell, W.P.: Select Documents on British Colonial Policy 1830-1860.
- Bodelsen, C.A.: Studies in Mid-Victorian Imperialism.
- Boyd, C.W. (Editor): Mr. Chamberlain's Speeches.
- Bryce, J.: Essays in History and Jurisprudence.
Modern Democracies.
- Burpee, L.L.: Sanford Fleming, Empire Builder,
- Burt, A.L.: Imperial Architects.
- Chamberlain, J.: Foreign and Colonial Speeches.
- Chen, S.C.Y.: Schemes for the Federation of the British Empire.
- Cobden, R.: Speeches on Questions of Public Policy.
- Coupland, R.: The American Revolution and the British Empire.
- Crewe (Marquis of): Lord Roseberry.
- Currey, C.H.: British Colonial Policy. 1783-1915.
- Denison, W.: Varieties of Vice-Regal Life.
- Dilke, C.W.: Greater Britain.
Problems of Greater Britain.
- Egerton, H.E.: British Colonial Policy the 20th Century.
A Short History of British Colonial Policy.
Federations and Unions in the British Empire.
- Egerton, H.E. and Grant, W.L.: Canadian Constitutional Development.
- Ewart, J.S.: The Kingdom of Canada and other papers.
- Fiddes, G.V.: The Dominions and Colonial Offices.
- Fitzmaurice, Lord Edmund.: Life of Earl Granville.
- Forster, W.E.: Our Colonial Empire.
- Forsyth, W.D.: Governor Arthur's Convict System.
- Froude, J.A.: Inaugural Address at the University of St. Andrews. 1869.
Oceana.
Short Studies in Great Subjects.

- Garran, R.R.: The Coming Commonwealth.
The Making and Working of the Constitution.
- Garvin, J.L.: Life of Joseph Chamberlain.
- Gladstone, W.E.: Foreign and Colonial Policy.
Political Speeches in Scotland.
- Goldman, C.S. (Editor): The Empire and the Century.
- Grey, (Earl): The Colonial Policy of Lord John Russell's
Administration.
- Guthrie, E.: Home Rule and Federation.
- Gwynn, S and Tuckwell, G.M.: Life of Sir Charles Dilke.
- Hall, H.D.: The British Commonwealth of Nations.
- Hall, H.L.: Australia and England.
Victoria's Part in the Australian Federation
Movement. 1849-1900.
- Hall, W.P.: Empire to Commonwealth.
- Harrop, A.J.: The Amazing Career of Edward Gibbon Wakefield.
- Hearnshaw, F.J.C.: Democracy and the British Empire.
- Hearnshaw, F.J.C. (Editor): King's College Lectures on Colonial
Problems.
Prime Ministers of the Nineteenth Century.
- Hobson, J.A.: Imperialism.
Richard Cobden, the International Man.
- Hogan, J.F.: Robert Lowe, Viscount Sherbrooke.
The Gladstone Colony.
The Sister Dominions.
- Holland, Sydney. (Viscount Knutsford): In Black and White.
- Howe, Joseph.: Confederation considered in relation to the
interests of the Empire.
Speech on the union of the North American
Provinces and of the right of British colonists
to representation in the Imperial Parliament.
The Organisation of the Empire.
- Jebb, R.C.: Studies in Colonial Nationalism.
The Imperial Conference.
- Jenks, E.: The Government of Victoria.
The History of the Australasian Colonies.
- Johnson, G. (Editor): Annals and Aims of the Pacific Cable.
- Jose, A.W.: Builders and Pioneers of Australia.
- Keith, A.B.: British Colonial Policy.

- Keith, A.B.: The Constitutional Law of the British Dominions
The First British Empire.
Imperial Unity and the Dominions.
Responsible Government in the Dominions.
The Sovereignty of the British Dominions.
- Kelsey, S.W.: Imperial Federation.
- de Kiewiet, C.W.: British Colonial Policy and the South
African Republics.
- Knaplund, P.: Gladstone and Britain's Imperial Policy.
- Lang, J.D.: An Historical and Statistical Account of New
South Wales.
Transportation and Colonization.
Cookslund.
Phillipsland.
The Australian Emigrant's Manual.
Freedom and Independence.
The Coming Event.
- Lecky, W.E.H.: Historical and Political Essays.
- Lewis, G.C.: The Government of Dependencies (Edited by C.P.
Lucas).
- Lucas, C.P. The Empire at War. Vol. I.
Greater Rome and Greater Britain.
- Lucas, C.P.(Editor): Lord Durham's Report on the Affairs of
British North America.
- Lyne, C.E.: Life of Sir Henry Parkes.
- Macarthur James: Colonial Policy of 1840 and 1841.
- Mackay, A.: Analysis of the Australian Colonies Government
Bill, 1850.
- Malmesbury, (Earl of): Memoirs of an Ex-Minister.
- Marindin, G.(Editor): Letters of Lord Blachford.
- Marriott, J.A.R.: The Mechanism of the Modern State.
A History of my Own Times 1885-1932.
- Martin, A.P.: Australia and the Empire.
Life and Letters of Viscount Sherbrooke.
- Melbourne, A.C.V.: Early Constitutional Development in
Australia.
William Charles Wentworth.
- Merivale, H.: Colonization and Colonies.
- Mill, J.S.: Representative Government.
- Mills, A.: Colonial Constitutions.
Colonial Military Expenditure (Three Speeches
In the House of Commons, 1863).
Systematic Colonization.

- Mills, R.C.: The Colonization of Australia.
- Minty, L. le M.: Constitutional Laws of the British Empire.
- Molesworth, W.: Selected Speeches (Edited by H.E. Egerton).
- Monypenny, W.F. and Buckle, G.E.: The Life of Benjamin Disraeli.
- Moon, P.T.: Imperialism and World Politics.
- Moore, W.H.: The Constitution of the Commonwealth of Australia.
- Morrell, W.P.: British Colonial Policy in the age of Peel and Russell.
- Morris, E.E.: A Memoir of George Higinbotham.
- Morison, J.L.: British Supremacy and Canadian Self-Government.
- Morley, J.: Life of Richard Cobden.
Life of Gladstone.
- Murdoch, W.: Alfred Deakin, a Sketch.
- New, C.: Lord Durham, a Biography.
- Newton, A.P.: Federal and Unified Constitutions.
- Nicholson, J.S.: A Project of Empire.
- O'Connor, I.: Edward Gibbon Wakefield.
- Palmer, G.E.H.: Consultation and Co-operation in the British Commonwealth of Nations.
- Parkes, H.: Fifty Years in the Making of Australian History
Speeches (Edited by D. Blair.)
- Parkin, G.R.: Imperial Federation.
- Phillips, M.: A Colonial Autocracy.
- Porritt, E.: Fiscal and Diplomatic Freedom of the British
Oversea Dominions.
- Quick, J, and Garran. R.R.: The Annotated Constitution of the
Commonwealth of Australia.
- Reid, T.W.: Life of W.E. Forster.
- Roberts, S.H.: The Squatting Age in Australia.
History of French Colonial Policy. 1870-1925.
- Roebuck, J.A.: The Colonies of England.
- Rose, J.H., Newton, A.P., and Benians, E.A. - The Cambridge
History of the British Empire. Vol. VII.
Part.I.

- Rusden, G.W.: History of Australia.
The Discovery, Survey and Settlement of Port Phillip.
- Russell, Earl.: Recollections and Suggestions.
- Scott, E.: A Short History of Australia.
- Seeley, J.R.: The Expansion of England.
- Skelton, O.D.: Life of Sir Wilfrid Laurier.
- Smith, A.: The Wealth of Nations.
- Smith, G.: The Empire.
- Stephen, C.: The First Sir James Stephen.
- Sweetman, E.: Australian Constitutional Development.
- Swinburne, G.: A Source Book of Australian History.
- Taylor, H.: Autobiography of Sir Henry Taylor.
- Trollope, A.: Australia and New Zealand.
- Wakefield, E.G.: The Art of Colonization.
England and America.
A Letter from Sydney.
- Wentworth, W.C.: Description of the Colony of New South Wales.
- Westgarth, W.: Australia.
The Colony of Victoria.
- Williamson, J.A.: A Short History of British Expansion.
- Willison, J.: Sir Wilfrid Laurier.
- Wingfield-Stratford, E.: The History of British Civilisation.
The Victorian Sunset.
- Wise, B.R.: The Commonwealth of Australia.
- Wolf, L.: Life of the First Marquis of Ripon.
- Wood, F.L.W.: The Constitutional Development of Australia.
- Woodruff, D.: Expansion and Emigration (in Early Victorian England, Vol. II., Chapter XVI).
- Wrong, E.M.: Charles Buller and Responsible Government.
- Young, F.: Imperial Federation.
- Zimmern, A.E.: The Third British Empire.

Australian Men of Mark.

England and her Colonies: Five Essays on Imperial Federation (1887).

What should be the next steps of the Imperial Federation League?

By a Leaguer. (1885).

Victoria, The First Century (Centenary Celebrations Council).